

**An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2006 and June 30, 2007.**

**Emergency Preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the 90-day period may not terminate until after the beginning of the next fiscal year; and

**Whereas,** certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

**PART A**

**Sec. A-1. Appropriations and allocations.** In order to provide for necessary expenditures of State Government and other purposes for the fiscal years ending June 30, 2006 and June 30, 2007, the following sums as designated in the following tabulations are appropriated or allocated out of money not otherwise appropriated or allocated.

**Sec. A-2. Personal Services funding.** The amounts provided for Personal Services in appropriated and allocated programs are subject to the provision that the total number of positions and the costs thereof in any program may not, during any fiscal year, vary either from the positions included in computing the total dollars appropriated or allocated for Personal Services or in the specific cost of each position upon which the appropriations and allocations are based. This provision excludes Enterprise Funds. The State Budget Officer shall take the action necessary to ensure compliance with this section except as provided for in this section and 5 MRSA §1583-B.

Except as indicated below, savings accruing from unused funding of employee benefits may not be used to increase services provided by employees. Except as indicated below, accrued salary savings generated from vacant positions within an appropriation or allocation for Personal Services may be used for the payment of nonrecurring Personal Services costs within the account where the savings exist. In the 2006-2007 biennium only, accrued savings generated from vacant positions within a General Fund account's

appropriation for Personal Services may be used to offset Personal Services shortfalls in other General Fund accounts that occur as a direct result of Personal Services appropriation reductions for projected vacancies provided that the transfer of such accrued savings is subject to review by the Joint Standing Committee on Appropriations and Financial Affairs. Costs related to acting capacity appointments and emergency, unbudgeted overtime for which it is impractical to budget in advance may be used with the approval of the appointing authority. Other actions such as retroactive compensation for reclassifications or reallocations and retroactive or one-time settlements related to arbitrator or court decisions must be recommended by the department of agency head and approved by the State Budget Officer. Salary and employee benefits savings may not be used to fund recurring Personal Services actions either in the account where the savings exist or in another account.

**Sec. A-3. Seasonal or temporary employees.** All appointing authorities are required by chapter 12, section 4C8(c) of the Civil Service Rules, as amended on June 17, 1991, to inform all seasonal or temporary employees of the approximate date of termination of employment at the time of hire; and that notice must be given to all employees who are appointed to time-limited positions or appointments.

**Sec. A-4. Maine Military Authority Enterprise Fund.** It is the intent of the Legislature that the Maine Military Authority Enterprise Fund operate in the same manner as a similar business enterprise. Whereas the overall activity of the Fund is measured in terms of revenues and expenses, which fluctuate with changes in activity, depending upon the demand for its goods and services, the budget shall be flexible and be regarded as an approved plan that may be changed to react to market forces. Adjustments may be made through Financial Orders recommended to the Governor by the State Budget Officer to appropriately meet changes in the marketplace or employment requirements. If revenues or other sources of operating funds are not sufficient or available as anticipated for enterprise operations, there is no obligation to provide state funds. Positions funded by the operating revenues of the Maine Military Authority Enterprise Fund are not included as a part of the overall position count of state government operations as a result of their limited nature.

The Maine Military Authority shall provide financial Statements in a format prescribed by the State Controller to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee of the legislature having jurisdiction over the program on a quarterly basis.

**Sec. A-5. Unified state budget.** The Governor, when submitting the budget to the Legislature, shall submit the budget document and the General Fund and Highway Fund bills in a manner that will identify the gross amount of resources for each program. The gross unified budget bills and budget document encompass resources from the General Fund, Highway Fund, Federal Expenditures Fund, Federal Block Grant Fund and Other Special Revenue funds. Separate gross unified budget bills must be submitted for the General Fund and the Highway Fund.

**Sec. A-6. Reorganization of departments.** A state department or agency may not transfer Positions or Personal Services, All Other or Capital Expenditures funding between accounts when the expenditures will allow an action to take place that will cause an increased appropriation or allocation request in the Part I current services budget for any program.

**Sec. A-7. Other appropriation and allocation measures.** It is intended that the language in this Act, except for section 22 of this Part, applies to all other appropriation and allocation measures enacted by the Legislature.

**Sec. A-8. Appropriation and allocation of funds.** Any funds appearing in this Act that are specifically appropriated or allocated in another Act are included in this Act for informational purposes only, as are enterprise accounts. Governmental funds not specifically appropriated or allocated in another Act are appropriated or allocated in accordance with section 1 of this Part.

**Sec. A-9. Appropriations and allocations.** The following appropriations and allocations are made:

## **PART B**

**Sec. B-1. Supplemental appropriations and allocations.** There are appropriated and allocated from various funds for the fiscal years ending June 30, 2006 and June 30, 2007, to the departments listed, the following sums.

## PART C

**Sec. C-1 Mill Expectation.** The mill expectation pursuant to the Maine Revised Statutes, Title 20-A, section 15671-A for fiscal year 2005-06 is 8.26.

**Sec. C-2. Total Cost of Funding Public Education from Kindergarten to Grade 12.** The Total Cost of Funding Public Education from Kindergarten to Grade 12 for fiscal year 2005-06 is as follows:

	2005-06 TOTAL
<b>Total Operating Allocation</b>	
Total Operating Allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 without transition percentage	\$1,297,437,503
Total Operating Allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 with 84% transition percentage	\$1,089,847,503
Total Other Subsidizable Costs pursuant to the Maine Revised Statutes, Title 20-A, section 15681-A	<u>\$339,867,236</u>
<b>Total Operating Allocation</b>	
Total Operating Allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 with 84% transition percentage plus Total Other Subsidizable Costs pursuant to the Maine Revised Statutes, Title 20-A, section 15681-A	\$1,429,714,739
<b>Total Debt Service Allocation</b>	
Total Debt Service Allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683-A	\$88,665,631
<b>Total Adjustments and Miscellaneous Costs</b>	

Total Adjustments and Miscellaneous Costs pursuant to the Maine Revised Statutes, Title 20-A, section 15689 and 15689-A

\$48,037,274

**Total Cost of Funding Public Education from Kindergarten to Grade 12**

Total Cost of Funding Public Education from Kindergarten to Grade 12 for fiscal year 2005-06 pursuant to the Chapter 606-B

\$1,566,417,644

**Sec. C-3. Local and State Contributions to the Total Cost of Funding Public Education from Kindergarten to Grade 12.** The local contribution and the state contribution appropriation provided for General Purpose Aid for Local Schools for the fiscal year beginning July 1, 2005 and ending June 30, 2006 is calculated as follows:

<b>Local and State Contributions to the Total Cost of Funding Public Education from Kindergarten to Grade 12.</b>	<b>2005-06 LOCAL</b>	<b>2005-06 STATE</b>
Local and State Contributions to the Total Cost of Funding Public Education from Kindergarten to Grade 12 pursuant to the Maine Revised Statutes, Title 20-A, section 15683	\$742,389,545	\$824,028,099

**Sec. C-4. Limit of State's obligation.** If the State's continued obligation for any individual component contained in section 2 of this Part exceeds the level of funding provided for that component, any unexpended balances occurring in other programs may be applied to avoid proration of payments for any individual component. Any unexpended balances from section 2 of this Part may not lapse but must be carried forward for the same purpose.

**Sec. C-5. Authorization of payments.** Sections 1 to 4 of this Part may not be construed to require the State to provide payments that exceed the appropriation of funds for General Purpose Aid for Local Schools for the fiscal year beginning July 1, 2005 and ending June 30, 2006.

## PART D

**Sec. D-1. 5 MRSA §17154, sub-§6, ¶E**, as amended by PL 2003, c. 504, Pt. B, §1, is further amended to read:

E. Notwithstanding this section, the employer retirement costs related to the retirement system applicable to those teachers whose funding is provided directly or through reimbursement from private or public grants must be paid by local school systems from those funds. "Public grants" does not include state or local funds provided to school administrative units under Title 20-A, chapters 315, ~~606~~ and 606-B.

**Sec. D-2. 20-A MRSA §1, sub-§§17 and 18**, as amended by PL 1999, c. 75, §1, are further amended to read:

**17. Major capital costs.** "Major capital costs" is defined in section ~~15603, subsection 17~~ 15672, subsection 18-A.

**18. Minor capital costs.** "Minor capital costs" is defined in section ~~15603, subsection 18~~ 15672, subsection 20-A.

**Sec. D-3. 20-A MRSA §1301, sub-§1, ¶A**, as amended by PL 1993, c. 410, Pt. F, §3, is further amended to read:

A. Under a property valuation method, municipalities in a district shall share costs in the same proportion as each municipality's fiscal capacity as defined in section ~~15603, subsection 11-A~~ 15672, subsection 23 is to the district's fiscal capacity.

**Sec. D-4. 20-A MRSA §1301, sub-§1, ¶B**, as amended by PL 2001, c. 375, §1, is further amended to read:

B. Under an alternate plan approved by the state board and by a vote of the legislative bodies of the school administrative units forming the district and based on:

- (1) The number of resident pupils in each town;
- (2) The fiscal capacity of each member municipality as defined in section ~~15603, subsection 11-A~~ 15672, subsection 23;
- (3) Any combination of subparagraphs (1) and (2); or

(4) Any other factor or combination of factors that may, but need not, include subparagraphs (1) and (2).

**Sec. D-5. 20-A MRSA §1307, sub-§3**, as amended by PL 1997, c. 68, §1, is further amended to read:

**3. Summary action.** To summarize the action taken on the school budget for the purposes of determining state and local cost sharing, the articles prescribed in chapter ~~606~~ 606-B must also be voted upon.

**Sec. D-6. 20-A MRSA §1307, sub-§4**, as enacted by PL 1997, c. 68, §2, is amended to read:

**4. Budget explanation.** The warrant may include an explanation of the relationship between warrant articles authorizing specific line item expenditures as provided in subsection 1 and the articles prescribed in chapter ~~606~~ 606-B summarizing the budget proposal.

**Sec. D-7. 20-A MRSA §1308**, as amended by PL 1999, c. 710, §6, is further amended to read:

**§1308. Failure to pass budget**

If a budget for the operating of the district is not approved prior to July 1st, the latest budget as submitted by the board of directors is automatically considered the budget for operational expenses for the ensuing year until a final budget is approved, except that, when the school board delays the school budget meeting in accordance with section ~~15617~~ 15693, subsection 2, paragraph C, the operating budget must be approved within 30 days of the date the commissioner notifies the school board of the amount allocated to the school unit under section ~~15613~~ 15689-B or the latest budget submitted by the directors becomes the operating budget for the next school year.

**Sec. D-8. 20-A MRSA §1311, sub-§1, ¶C**, as amended by PL 1993, c. 372, §4, is further amended to read:

C. Minor capital costs as defined in section ~~15603, subsection 18~~ 15672, subsection 20-A.

**Sec. D-9. 20-A MRSA §1351, sub-§1, ¶K**, as amended by PL 1999, c. 75, §2, is further amended to read:

K. To borrow funds for minor capital costs as defined in section ~~15603, subsection 18~~ 15672, subsection 20-A.



**Sec. D-10. 20-A MRSA §1407, sub-§2**, as amended by PL 1999, c. 75, §3, is further amended to read:

**2. Expense of keeping the school open.** If the voters vote to keep the school open, the member municipality is liable for some additional expense for actual local operating costs and transportation operating costs as defined in section ~~45603~~ 15672. The determination of costs is subject to the approval of the commissioner. The cost to be borne by the town voting to keep an elementary school open is the amount that would be saved if the school were closed. Any additional costs that must be borne by the member municipality must be part of the article presented to the voters at the meeting to determine whether the school should remain open.

**Sec. D-11. 20-A MRSA §1701, sub-§3**, as amended by PL 1991, c. 429, §4, is further amended to read:

**3. Time and place.** The district school committee shall call an annual budget meeting on or before June 30th at an hour and in a location within the community school district it designates, except that the school committee may delay the annual budget meeting to a date after July 1st in accordance with section ~~45617~~ 15693, subsection 2, paragraph C.

**Sec. D-12. 20-A MRSA §1701, sub-§9, ¶A**, as amended by PL 1999, c. 710, §8, is further amended to read:

A. The budget format may be determined by the voters of a community school district by adoption of an appropriate warrant article at a properly called election held in accordance with the procedure set forth in section ~~45617~~ 15693, subsection 6.

**Sec. D-13. 20-A MRSA §1701, sub-§12**, as amended by PL 1999, c. 710, §10, is further amended to read:

**12. State-local allocations.** To summarize the action taken on the budget for the purposes of determining the community school district's state-local allocations, the articles prescribed in chapter ~~606~~ 606-B must also be voted on.

**Sec. D-14. 20-A MRSA §1701-B, sub-§5**, as enacted by PL 1999, c. 710, §11, is amended to read:

**5. Failure to approve budget.** If the voters do not validate the budget approved in the district budget meeting at the budget validation referendum vote, the district school committee shall hold another district budget meeting in accordance with section 1701, subsection 8 at least 10 days after the referendum to vote on a budget approved by the committee. The budget

approved at the district budget meeting must be submitted to the voters for validation at referendum in accordance with this section. The process must be repeated until a budget is approved at a district budget meeting and validated at referendum. If a budget is not approved and validated before July 1st of each year, the latest budget submitted by the committee is automatically considered the budget for operational expenses for the ensuing year until a final budget is approved, except that when the school committee delays the district budget meeting in accordance with section ~~15617~~ 15693, subsection 2, paragraph C the operating budget must be approved within 30 days of the date the commissioner notifies the school committee of the amount allocated to the school unit under section ~~15613~~ 15689-B or the latest budget submitted by the committee becomes the operating budget for the next school year.

**Sec. D-15. 20-A MRSA §1704, sub-§1, ¶B**, as amended by PL 1993, c. 410, Pt. F, §4, is further amended to read:

B. The fiscal capacity of each member municipality as defined in section ~~15603, subsection 11-A~~ 15672, subsection 23;

**Sec. D-16. 20-A MRSA §4003-A** is enacted to read:

**§4003-A. Hazardous chemicals**

The commissioner shall establish rules governing the purchase and storage of hazardous chemicals in schools.

**Sec. D-17. 20-A MRSA §4254, sub-§1**, as amended by PL 1997, c. 534, §3, is further amended to read:

**1. Allowable costs.** Allowable costs are the cost of implementing approved plans; these costs may be added to the school unit's subsidizable costs under chapter ~~606~~ 606-B.

**Sec. D-18. 20-A MRSA §5401, sub-§15, ¶C**, as amended by PL 2001, c. 667, Pt. C, §11, is further amended to read:

C. A school board may obtain a short-term loan or enter into a lease-purchase agreement to acquire school buses if the loan is approved by the unit's legislative body or if funds that can be used for the initial lease-purchase payment have been appropriated by the unit's legislative body. The term of a loan or a lease-purchase agreement may not exceed 5 years. The commissioner shall establish a maximum amount for annual-term purchases in excess of the amount established in paragraph A. Beginning in fiscal year ~~2003-04~~ 2005-06, these expenditures must be subsidized in accordance with ~~section 15603, subsection 26-A~~ chapter 606-B.

**Sec. D-19. 20-A MRSA §6303**, as enacted by PL 1995, c. 427, §1, is amended to read:

**§6303. Medicaid for health and human services**

A school administrative unit may receive funds from the Medicaid program pursuant to the United States Social Security Act, 42 United States Code, for the provision of preventive health, health, habilitation, rehabilitation and social services to eligible students ~~in accordance with section 15613, subsection 16.~~

**Sec. D-20. 20-A MRSA §6651, sub-§3**, as amended by PL 1989, c. 414, §16, is repealed.

**Sec. D-21. 20-A MRSA §6654**, as amended by PL 1991, c. 550 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**§6654. School-based child care grants**

The department and the Department of Health and Human Services are authorized to provide assistance to school administrative units to assist the units in establishing school-based child care services. ~~Any assistance provided must provide funds for 2 years and expenditure of those funds is considered expenditure of local funds in computing the unit's educational program costs in chapter 606. The department has full authority to administer any grant program that it operates under this section.~~

**Sec. D-22. 20-A MRSA §7734-A, first ¶**, as repealed and replaced by PL 1999, c. 296, §10, is amended to read:

In addition to the programs authorized in this chapter, school administrative units may provide services for children who are disabled in a manner consistent with sections 4251 to 4254, and the cost of such services is subsidizable as special education costs under chapter ~~606~~ 606-B.

**Sec. D-23. 20-A MRSA §8301-A, sub-§§4 and 9**, as enacted by PL 1991, c. 518, §2, are amended to read:

**4. Municipality.** "Municipality" has the same meaning as in section ~~15603, subsection 19~~ 15672, subsection 21.

**9. State subsidy.** "State subsidy" has the same meaning as in section ~~15603, subsection 26~~ 15672, subsection 31-A.

**Sec. D-24. 20-A MRSA §8351**, as amended by PL 1991, c. 518, §9 and c. 716, §6 and PL 2003, c. 545, §5, is further amended to read:

**§8351. State aid for career and technical education centers and career and technical education regions**

State aid for centers and regions must be administered in accordance with chapters' ~~606~~ 606-B and 609 and Title 20, section 3457.

**Sec. D-25. 20-A MRSA §8402**, as corrected by RR 2003, c. 2, §55, is amended to read:

**§8402. Programs**

A center shall provide programs of career and technical education. Programs of career and technical education are eligible to receive state subsidy pursuant to chapters' ~~606~~ 606-B and 609. All programs of career and technical education offered by a center must be approved by the commissioner pursuant to section 8306-A. The programs must offer a sequence of courses that are directly related to the preparation of individuals for employment in current or emerging occupations and may include training and education in academic and business skills preparing students to further their education at the community college or other college level or allowing students to use trade and occupational skills on other than an employee basis. Programs of career and technical education may also include alternative educational programs and training and education in music, athletics, art and other activities approved by the commissioner pursuant to section 8306-A.

**Sec. D-26. 20-A MRSA §8404, sub-§3, ¶C**, as corrected by RR 2003, c. 2, §59, is amended to read:

C. Shall, in the event that the school boards of School Administrative District No. 27, School Administrative District No. 33 and Madawaska School Department enter into a cooperative agreement pursuant to section 8401 and a new career and technical education center in Maine School Administrative District No. 33 becomes operational, devise a cost sharing formula for the center established thereby pertaining to the cost of career and technical education programs that exceed expenditures made for those programs in the base year as adjusted pursuant to section ~~15603~~ 15681-A, subsection ~~5~~ 4 and to the local share of debt service costs attributable to construction of the center in School Administrative District No. 33;

**Sec. D-27. 20-A MRSA §8451-A**, as corrected by RR 2003, c. 2, §61, is amended to read:

**§8451-A. Programs**

A region shall provide programs of career and technical education. Programs of career and technical education are eligible to receive state subsidy pursuant to chapters' ~~606~~ 606-B and 609. All programs of career and technical education offered by a region must be approved by the commissioner pursuant to section 8306-A. The programs must offer a sequence of courses that are directly related to the preparation of individuals for employment in current or emerging occupations and may include training and education in academic and business skills preparing students to further their education at the community college or college level or allowing students to use trade and occupational skills on other than an employee basis. Programs of career and technical education may also include alternative educational programs and training and education in music, athletics, art and other activities approved by the commissioner pursuant to section 8306-A.

**Sec. D-28. 20-A MRSA §8601-A, sub-§6**, as enacted by PL 1991, c. 518, §33, is amended to read:

**6. Municipality.** "Municipality" has the same meaning as in section ~~45603, subsection 19-15672, subsection 21.~~

**Sec. D-29. 20-A MRSA §8605, sub-§2, ¶B**, as amended by PL 1995, c. 665, Pt. J, §1, is further amended to read:

B. The unit in which such a person resides must be reimbursed in accordance with ~~chapters 606 and 606-A~~ chapter 606-B.

**Sec. D-30. 20-A MRSA §8606-A, sub-§2, ¶C**, as amended by PL 1991, c. 518, §38, is further amended to read:

C. The recommendation in the commissioner's funding level certification must include local adult education program cost adjustment to the equivalent of the year prior to the year of allocation. This adjustment is calculated according to the same guidelines established, for purposes of chapter ~~606~~ 606-B, by section ~~45605~~ 15689-C, subsection 3.

**Sec. D-31. 20-A MRSA §15622** is enacted to read:

**§15622. Repeal**

This chapter is repealed July 1, 2005.

**Sec. D-32. 20-A MRSA §15658**, as enacted by PL 1995, c. 368, Pt. Z, §1 and affected by §2, is amended to read:

## **~~§15658. Relationship to the School Finance Act of 1985~~**

~~The provisions of chapter 606 606-B apply except as described in this section.~~

~~**1. Operating costs mill rate.** The operating costs mill rate, as described in chapter 606 606-B, is in effect for the limited purposes of determining the state and local shares of each school administrative unit's program costs allocation and its debt service allocation, and for determining the amount required to provide the statewide state share of the allocation for the per pupil guarantee. For each individual school administrative unit, the amounts described in section 15655, subsection 1 are used rather than the amounts in section 15608, subsection 1; section 15609, subsection 1, paragraph A; and section 15610, subsection 1, paragraph A.~~

**Sec. D-33. 20-A MRSA §15659, sub-§1, ¶A**, as enacted by PL 1995, c. 368, Pt. Z, §1 and affected by §2, is amended to read:

~~A. The State's share for fiscal year 1996-97 for the allocation of the per pupil guarantee as determined in this chapter, plus the State's share for program costs and the minimum subsidy allocation as determined in chapter 606, less subsidies provided for bus purchases, divided by the subsidizable pupils, as defined in this chapter; and~~

**Sec. D-34. 20-A MRSA §15671, sub-§1**, as amended by PL 2003, c. 712, §9, is amended to read:

**1. State and local partnership.** The State and each local school administrative unit are jointly responsible for contributing to the cost of the components of essential programs and services described in this chapter.

Except as otherwise provided in this subsection, for each fiscal year, the total cost of the components of essential programs and services may not exceed the prior fiscal year's costs multiplied by one plus the average real personal income growth rate as defined in Title 5, section 1665, subsection 1, except that in no case may that rate exceed 2.75%. For fiscal years commencing after the state tax burden ranks in the middle 1/3 of all states, as calculated and certified by the State Tax Assessor, the total cost of the components of essential programs and services may not exceed the prior fiscal year's costs multiplied by one plus the average real personal income growth rate as defined in Title 5, section 1665, subsection 1. The Legislature, by an affirmative vote of each House, may exceed the limitations on increases in the total cost of the components of essential programs and services provided in this subsection, as long as that vote is taken upon legislation stating that it is the Legislature's intent to override the limitation for that fiscal year. The state contribution to the cost of the components of essential programs and services, exclusive of federal funds that are provided and accounted for in the cost of the

components of essential programs and services, must be made in accordance with this subsection:

A. The level of the state share of funding attributable to the cost of the components of essential programs and services must be at least 50% of eligible state and local General Fund education costs statewide, no later than fiscal year ~~2007-08~~ 2006-07; and

B. By fiscal year ~~2009-10~~ 2008-09 the state share of the total cost of funding public education from kindergarten to grade 12, as described by essential programs and services, must be 55%. Beginning in fiscal year 2005-06 and in each fiscal year until fiscal year ~~2009-10~~ 2008-09, the state share of essential programs and services described costs must increase toward the 55% level required in fiscal year ~~2009-10~~ 2008-09.

Beginning in fiscal year 2005-06 and in each fiscal year thereafter, the commissioner shall use the funding level determined in accordance with this section as the basis for a recommended funding level for the state share of the cost of the components of essential programs and services.

**Sec. D-34-A. 20-A MRSA §15671, sub-§3,** is amended to read:

3. Specialized student populations. In recognition that educational needs can be more costly for some student populations than for others, modified per-pupil guarantee amounts or weighted pupil counts must be calculated for specialized student populations. The specialized student populations to be addressed are:

- A. Special education students;
- B. Limited English proficiency students;
- C. Economically disadvantaged students; and
- D. Students in kindergarten ~~to~~ through grade 2.

**Sec. D-34-B. 20-A MRSA §15671, sub-§6,** is amended to read:

6. Targeted funds. Funds for technology, assessment and the costs of additional investments in educating children in kindergarten ~~to~~ through grade 2 must be provided as targeted grants. School administrative units shall submit a plan for the use of these funds and shall receive funding based on approval of the plan by the commissioner. Any plan must be pursuant to Chapter 203. sub-chapter II of this Title.

**Sec. D-35. 20-A MRSA §15671, sub-§7,** as amended by PL 2003, c. 712, §10, is further amended to read:

**7. Transition; annual targets.** To achieve the system of school funding based on essential programs and services required by this section, the following annual targets are established.

A. The annual targets for the essential programs and services transition percentage, excluding ~~program cost allocation~~ other subsidizable costs, debt service allocation and adjustments, are as follows.

- (1) For fiscal year 2005-06, the target is 84%.
- (2) For fiscal year 2006-07, the target is ~~88%~~ 90%.
- (3) For fiscal year 2007-08, the target is ~~92%~~ 95%.
- (4) For fiscal year 2008-09 and succeeding years, the target is ~~96%~~ 100%.
- ~~(5) For fiscal year 2009-10 and succeeding years, the target is 100%.~~

B. The annual targets for the state share percentage are as follows.

- (1) For fiscal year 2005-06, the target is 52.6%.
- (2) For fiscal year 2006-07, the target is ~~52.6%~~ 53.86%.
- (3) For fiscal year 2007-08, the target is ~~53%~~ 54.44%.
- (4) For fiscal year 2008-09 and succeeding years, the target is ~~54%~~ 55%.
- ~~(5) For fiscal year 2009-10 and succeeding years, the target is 55%.~~

**Sec. D-36. 20-A MRSA §15671-A**, as enacted by PL 2003, c. 712, §11, is amended to read:

**§15671-A. Property tax contribution to public education**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Funding public education from kindergarten to grade 12" means providing the cost of funding the essential programs and services described in this chapter plus the total allocations for ~~program cost~~ other subsidizable costs, debt service costs and adjustments.



B. "Local cost share expectation" means the maximum amount of money for funding public education from kindergarten to grade 12 that may be derived from property tax for the required local contribution established in section 15688, subsection 3.

**2. Local cost share expectation.** The local cost share expectation is established as follows.

A. Notwithstanding any other provision of law, with respect to the assessment of any property taxes for property tax years beginning on or after April 1, 2005, this subsection establishes the local cost share expectation that may be assessed on the value of property for the purpose of funding public education from kindergarten to grade 12. The commissioner shall annually by February 1st notify each school administrative unit of its local cost share expectation. Each superintendent shall report to the municipal officers whenever a school administrative unit is notified of the local cost share expectation or a change made in the local cost share expectation resulting from an adjustment.

B. For property tax years beginning on or after April 1, 2005, the commissioner shall calculate the full-value education mill rate that is required to raise the total of the local cost share expectation. The full-value education mill rate is calculated by dividing the applicable tax year percentage of the projected cost of funding public education from kindergarten to grade 12 by the certified total state valuation for the year prior to the most recently certified total state valuation for all municipalities. The full-value education mill rate must decline over the period from fiscal year 2005-06 to fiscal year ~~2009-10~~ 2008-09 and may not exceed 9.0 mills in fiscal year 2005-06 and may not exceed 8.0 mills in fiscal year ~~2009-10~~ 2008-09. The full-value education mill rate must be applied according to section 15688, subsection 3, paragraph A to determine a municipality's local cost share expectation. Full-value education mill rates must be derived according to the following schedule.

(1) For the 2005 property tax year, the full-value education mill rate is the amount necessary to result in a 47.4% local share in fiscal year 2005-06.

(2) For the 2006 property tax year, the full-value education mill rate is the amount necessary to result in a ~~47.4%~~ 46.14% local share in fiscal year 2006-07.

(3) For the 2007 property tax year, the full-value education mill rate is the amount necessary to result in a ~~47.0%~~ 45.56% local share in fiscal year 2007-08.

(4) For the 2008 property tax year, the full-value education mill rate is the amount necessary to result in a ~~46.0%~~ 45.0% local share in fiscal year 2008-09.

~~(5) For the 2009 property tax year, the full-value education mill rate is the amount necessary to result in a 45.0% local share in fiscal year 2009-10.~~

### **3. Exceeding maximum local cost share expectations; separate article.**

Beginning with the 2005-2006 school budget, the legislative body of a school administrative unit may adopt ~~property tax rates~~ an additional local appropriation that exceeds the local cost share expectation established by section 15688, subsection 3, paragraph A if that action is approved in a separate article by a vote of the school administrative unit's legislative body through the same process that the school budget is approved in that school administrative unit. If that additional appropriation causes the school administrative unit to exceed the maximum state and local spending target described in subsection 4, the voting requirements of subsection 4 apply.

**4. Exceeding the maximum state and local spending target.** The sum of a school administrative unit's local contribution to the total cost of funding public education determined pursuant to section 15688, subsection 3, paragraph A plus the state contribution as calculated in section 15688, subsection 3, paragraph B plus the additional local contribution raised pursuant to section 15690, subsection 3 may not exceed the targeted state and local spending for fiscal year 2005-06 and succeeding fiscal years. The targeted state and local spending for fiscal years 2005-06, 2006-07, 2007-08 and 2008-09 is as follows:

A. The targeted state and local spending for fiscal year 2005-06 is equal to the state and local spending, excluding local only debt, from fiscal year 2004-05 increased by the 3-year average percent of increase in the Consumer Price Index plus 25% of the difference between that result and 100% of the essential programs and services costs for fiscal year 2005-06 or 100% of the essential programs and services costs, whichever is less;

B. The targeted state and local spending for fiscal year 2006-07 is equal to the state and local spending, excluding local only debt, from fiscal year 2005-06 increased by the 3-year average percent of increase in the Consumer Price Index plus 25% of the difference between that result and 100% of the essential programs and services costs for fiscal year

2006-07 or 100% of the essential programs and services costs, whichever is less;

C. The targeted state and local spending for fiscal year 2007-08 is equal to the state and local spending, excluding local only debt, from fiscal year 2006-07 increased by the 3-year average percent of increase in the Consumer Price Index plus 25% of the difference between that result and 100% of the essential programs and services costs for fiscal year 2007-08 or 100% of the essential programs and services costs, whichever is less; and

D. The targeted state and local spending for fiscal year 2008-09 and succeeding years is equal to 100% of the essential programs and services costs.

If a school administrative unit elects to exceed the limit established in paragraph A, B, C or D, the legislative body of that school administrative unit must approve or otherwise ratify that action, which may be done only by referendum in a separate article. The referendum procedures governing the school budget adoption or ratification voting must be accomplished in accordance with sections 1305, subsection 1, 1305-B and 1701-B or, for municipal school systems opting to use a secret ballot, Title 30-A, section 2528, and the article must conform to section 15690, subsection 3, paragraph B.

**Sec. D-37. 20-A MRSA §15672**, as amended by PL 2003, c. 712, §12, is further amended to read:

### **§15672. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Allocation year.** "Allocation year" means the year that subsidy is distributed to school administrative units.

**1-A. Base year.** "Base year" means the 2nd year prior to the allocation year.

**1-B. Bus purchase costs.** "Bus purchase costs" includes expenditures for bus purchases approved by the commissioner and made during the year prior to the allocation year.

**2. Clerical staff.** "Clerical staff" means full-time equivalent public school secretaries, as documented in the department's database.

**2-A. Debt service costs.** "Debt service costs," for subsidy purposes, includes:

A. Principal and interest costs for approved major capital projects in the allocation year, including the initial local share of school construction projects that received voter approval for all or part of their funding in referendum in fiscal year 1984-85;

B. Lease costs for school buildings when the leases, including leases under which the school administrative unit may apply the lease payments to the purchase of portable, temporary classroom space beginning January 1, 1988, have been approved by the commissioner for the year prior to the allocation year. Beginning July 1, 1998 lease costs include costs for leasing:

(1) Administrative space. A school administrative unit may lease administrative space with state support until July 1, 2003. A school administrative unit engaged in a lease-purchase agreement for administrative space is eligible for state support until July 1, 2008;

(2) Temporary interim nonadministrative space.

(a) A school administrative unit with state-approved need for nonadministrative space may lease temporary interim space, with state support, for a maximum of 5 years. A school administrative unit may appeal to the state board if this limitation presents an undue burden. When making a determination on a school administrative unit's request for relief based on undue burden, the state board may consider, but are not limited to considering, the following:

(i) Fiscal capacity;

(ii) Enrollment demographics; and

(iii) Unforeseen circumstances not within the control of the appealing school administrative unit.

The state board's decision is final.

(b) A school administrative unit engaged in a lease-purchase agreement for temporary interim nonadministrative space is eligible for state support for a maximum of 10 years; and

(3) Permanent small nonadministrative space that replaces or is converted from existing approved leased portable space. The existing approved leased portable space will be eligible for state support until July 1, 2003. Once an existing leased portable space has been converted into a permanent nonadministrative space through an approved lease-purchase agreement, that space is eligible for state support for a maximum of 10 years.

The department shall adopt rules necessary to implement this paragraph. Rules adopted by the department to implement this paragraph are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A;

C. The portion of the tuition costs applicable to the insured value factor for the base year computed under section 5806; and

D. The cost of construction or purchase of portable, temporary classroom space as approved by the commissioner beginning January 1, 1988. For the purposes of this section, "portable, temporary classroom space" means a project consisting of one or more mobile or modular buildings that are at least partially constructed off site and are designed to be moved to other sites with a minimum of disassembly and reassembly. "Portable, temporary classroom space" includes, but is not limited to, space for regular classrooms, small group instruction, libraries, clinics and guidance and administrative office space, including principal and superintendent offices. The department shall adopt rules for approving the purchase, construction or lease-purchase of portable, temporary classroom space and for determining the amount includable for subsidy purposes. Lease-purchase agreements may not exceed a term of 10 years. Approved costs are those for the year prior to the allocation year. The department shall adopt rules necessary to implement this paragraph. Rules adopted by the department to implement this paragraph are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A; and.

E. Beginning in school year 2002-2003, 1/5 of the aggregate amount of the approved leases defined in paragraph B and an additional 1/5 for each year thereafter may not be used to determine the debt service millage limit calculated under section 15611, subsection 1, paragraph A. The local share for the 1/5 of the aggregate amount of the approved leases defined in paragraph B and an additional 1/5 for each year thereafter must be calculated as the same percentage determined under section 15609, subsection 1, paragraph A. The department shall adopt rules necessary to implement this paragraph. Rules adopted by the

department to implement this paragraph are major substantive rules pursuant to Title 5, chapter 375, subchapter 2 A.

**3. Economically disadvantaged students.** "Economically disadvantaged students" means students who are included in the department's count of students who are eligible for free or reduced-price meals or free milk or both.

**4. Education technician.** "Education technician" means a full-time equivalent public teacher aide or education technician I, associate teacher or education technician II or assistant teacher or education technician III but not a special education technician I, II or III, as documented in the department's database.

**5. Elementary free or reduced-price meals percentage.** "Elementary free or reduced-price meals percentage" means the percentage, as determined by the commissioner, that reflects either:

- A. The actual percentage of elementary students in a school administrative unit who are eligible to receive free or reduced-price meals or free milk or both; or
- B. The commissioner's estimated percentage of elementary students in a school administrative unit who are eligible to receive free or reduced-price meals or free milk or both.

**6. Elementary grades.** "Elementary grades" means kindergarten to grade 8 and includes children enrolled in early kindergarten programs and 4-year-old children enrolled in a 2-year childhood education program prior to grade one.

**7. Elementary school level.** "Elementary school level" means the grades from kindergarten to grade 5 and includes early kindergarten programs and 2-year childhood education programs enrolling 4-year-old children prior to grade one.

**7-A. EPS per-pupil rate.** "EPS per-pupil rate" means the total amount of funds that is made available for each subsidizable pupil representing the following cost components:

- A. Salary and benefit costs for school level teaching staff;
- B. Salary and benefit costs for other identified school level staff;
- C. Designated costs for substitute teachers; and
- D. Identified nonstaffing costs.

**8. Essential programs and services.** "Essential programs and services" means those educational resources that are identified in this chapter that enable all

students to meet the standards in the 8 content standard subject areas of the system of learning results established in chapter 222.

**9. Essential programs and services transition percentage.** "Essential programs and services transition percentage" means the full estimated cost for all essential programs and services for that fiscal year that will be funded by a state contribution or by a required local contribution.

**9-A. Gifted and talented costs.** "Gifted and talented costs" means the cost of programs for gifted and talented students that have been approved by the commissioner.

**10. Grade 9 to 12 portion.** "Grade 9 to 12 portion" means those pupils in the secondary grades or high school level.

**11. Guidance staff.** "Guidance staff" means full-time equivalent public guidance counselors, directors of guidance or school social workers, as documented in the department's database.

**12. Health staff.** "Health staff" means full-time equivalent public school nurses, as documented in the department's database.

**13. High school level.** "High school level" means grade 9 to grade 12.

**13-A. Institutional resident.** "Institutional resident" means a person between 5 years of age and 20 years of age who is attending a public school of the school administrative unit and who is committed or otherwise legally admitted to and residing at a state-operated institution. "Institutional resident" does not include students attending private facilities, regardless of the means of placement.

~~**14. Income weight.** "Income weight" means a value between zero and one that is used to adjust a municipality's ratio of local median household income to the statewide median household income. The income weight plus the property weight, as defined in subsection 24, must total one.~~

**15. Kindergarten to grade 8 portion.** "Kindergarten to grade 8 portion" means those pupils in the elementary grades or a combination of the elementary school level and middle school level.

**16. Kindergarten ~~to~~ through grade 2 student.** "Kindergarten ~~to~~ through grade 2 student" means a student in any grade from prekindergarten to grade 2 who is at least ~~5~~ 4 years old on October 15th of the school year.

**17. Librarian.** "Librarian" means a full-time equivalent public librarian or media specialist, as documented in the department's database.

**18. Limited English proficiency student.** "Limited English proficiency student" means a student who was not born in the United States or whose native language is a language other than English and who satisfies the definition of a limited English proficient student under the federal No Child Left Behind Act of 2001, 20 United States Code, Chapter 70.

**18-A. Major capital costs.** "Major capital costs" means costs relating to school construction projects, as defined in section 15901.

**19. Media assistant.** "Media assistant" means a full-time equivalent public librarian aide or library technician I, librarian assistant or library technician II or librarian associate or library technician III, as documented in the department's database.

**20. Middle school level.** "Middle school level" means grade 6 to grade 8.

**20-A. Minor capital costs.** "Minor capital costs" means costs relating to plant maintenance, minor remodeling, site development or the purchase of land not in conjunction with a construction project.

A. "Minor capital costs" does not include construction of new buildings or the purchase of land in conjunction with a school construction project.

B. Expenditures to repay funds borrowed for minor capital expenditures must be considered minor capital costs in the year in which these funds are repaid.

C. Purchase of land made in accordance with this subsection must be approved:

(1) By the legislative body of the school administrative unit;  
and

(2) By the commissioner, under rules adopted for this purpose.

**21. Municipality.** "Municipality" means a city, town or organized plantation.

**21-A. Portable, temporary classroom space.** "Portable, temporary classroom space" means one or more mobile or modular buildings that are at least partially constructed off site and that are designed to be moved to other sites with a minimum of disassembly and reassembly.

**~~22. Per-pupil guarantee.~~** ~~"Per-pupil guarantee" means the total amount of funds that is made available for each subsidizable pupil representing the following cost components:~~



- ~~A. Salary and benefit costs for school level teaching staff;~~
- ~~B. Salary and benefit costs for other identified school level staff;~~
- ~~C. Designated costs for substitute teachers; and~~
- ~~D. Identified nonstaffing costs.~~

**22-A. Predicted per-pupil transportation costs.** "Predicted per-pupil transportation costs" means the predicted transportation costs for a school administrative unit based on the number of resident pupils, the number of miles of Class 1 to Class 5 roads in the school administrative unit and approved adjustments. Approved adjustments include a per mile rate equal to the state average gross transportation operating costs per mile driven for transportation associated with out-of-district special education programs, up to 2 round trips per day for vocational education programs, and adjustments for expenditures for ferry services within a school administrative unit, transportation of homeless children in accordance with section 5205 and transportation costs of island school administrative units.

**23. Property fiscal capacity.** "Property fiscal capacity" means the certified state valuation ~~amount~~ for the year prior to the most recently certified state valuation recently certified state valuation.

~~**24. Property weight.** "Property weight" means a value between zero and one that is used to adjust a municipality's ratio of local per pupil property fiscal capacity to the statewide per pupil property fiscal capacity. The income weight, as defined in subsection 14, plus the property weight must total one.~~

**25. School administrative staff.** "School administrative staff" means full-time equivalent public school principals and assistant principals, as documented in the department's database.

**26. School administrative unit's local contribution to EPS per-pupil rate.** "School administrative unit's local contribution to the ~~per-pupil-guarantee~~ EPS per-pupil rate" means the funds that a school administrative unit provides for each subsidizable pupil who resides in that unit.

**27. School administrative unit's state contribution to EPS per-pupil rate.** "School administrative unit's state contribution to the ~~per-pupil-guarantee~~ EPS per-pupil rate" means the funds that the State provides to a school administrative unit for each subsidizable pupil who resides in that unit.

**28. School level.** "School level" means elementary level, middle school level and high school level.

**29. School level teaching staff.** "School level teaching staff" means full-time equivalent public classroom teachers, itinerant classroom teachers and special teachers of reading or literacy specialists excluding special education teachers and vocational education teachers, as documented in the department's database.

**30. Secondary grades.** "Secondary grades" means grade 9 to grade 12.

**30-A. Special education costs.** "Special education costs" for subsidy purposes includes:

A. The salary and benefit costs of certified professionals, assistants and aides or persons contracted to perform a special education service;

B. The costs of tuition and board to other schools for programs that have been approved by the commissioner and not paid directly by the State. Medical costs are not allowable as part of a tuition charge;

C. The following preschool handicapped services:

(1) The salary and benefit costs of certified professionals, assistants and aides or persons contracted to perform preschool handicapped services that have been approved by the commissioner; and

(2) The cost of tuition to other schools for programs that have been approved by the commissioner; and

D. Special education costs that are the costs of educational services provided to students who are temporarily unable to participate in regular school programs. Students who may be included are pregnant students, hospitalized students or those confined to their homes for illness or injury, students involved in substance abuse programs within hospital settings or in residential rehabilitation facilities licensed by the Department of Health and Human Services, Office of Alcoholism and Drug Abuse Prevention for less than 6 weeks duration or students suffering from other temporary conditions that prohibit their attendance at school. Students served under this paragraph may not be counted as exceptional students for federal reporting purposes.

**30-B. State-operated institution.** "State-operated institution" means any residential facility or institution that is operated by the Department of Health and Human Services or a school operated by the Department of Education.

**31. State share percentage.** "State share percentage" means the percentage of the ~~sum of the following amounts that is provided by a state appropriation:~~

state contribution determined under section 15688, subsection 3, paragraph B divided by the total cost determined in section 15688, subsection 1.

~~A. Operating costs total allocation, as described in section 15683;~~

~~B. Program costs allocation, as described in section 15608, subsection 2;~~

~~C. Allocations for debt service costs, as defined in section 15603, subsection 8; and~~

~~D. Allocations for all adjustments and miscellaneous costs authorized pursuant to sections 15612 and 15613.~~

**31-A. State subsidy.** "State subsidy" means the total of the state contribution determined under section 15688, subsection 3, paragraph B and any applicable adjustment under section 15689.

**31-B. Subsidizable costs.** "Subsidizable costs" includes the costs described in paragraphs A to C and used to calculate the total allocation amount:

A. The total operating allocation under section 15683;

B. Debt service cost, including the following:

(1) Principal and interest on approved school construction costs as described in subsection 2-A, paragraph A; excluding payments made with funds from state and local government accounts established under the federal Internal Revenue Code and regulations for disposition of excess, unneeded proceeds of bonds issued for a school project;

(2) Approved lease and lease purchase costs as described in subsection 2-A, paragraphs B and D; and

(3) Insured value factor costs as described in section 5806, subsection 2; and

C. Adjustments and miscellaneous costs under sections 15689 and 15689-A including special education tuition and board, excluding medical costs. For purposes of this paragraph, "special education tuition and board" means:

(1) Tuition and board for pupils placed directly by the State in accordance with rules adopted or amended by the commissioner; and

(2) Special education tuition and other tuition for institutional residents of state-operated institutions attending programs in school administrative units or private schools in accordance with rules adopted or amended by the commissioner.

D. Nonsubsidizable costs are not considered in the calculation of the total allocation. "Nonsubsidizable costs" includes the following:

(1) Community service costs;

(2) Major capital costs;

(3) Expenditures from all federal revenue sources, except for amounts received under United States Public Law 81-874;

(4) Transportation costs not associated with transporting students from home to school and back home each day; and

(5) Costs payable to the Maine State Retirement System under Title 5, section 17154, subsections 10 and 11.

**32. Subsidizable pupils.** "Subsidizable pupils" means all school level pupils who reside in a school administrative unit and who are educated at public expense.

**32-A. Total allocation.** "Total allocation" means the total of the operating allocation as described in section 15683 and the debt service allocation as described in section 15683-A. Nonsubsidizable costs are not considered in the calculation of the total allocation. "Nonsubsidizable costs" includes the following:

A. Community service costs;

B. Major capital costs;

C. Expenditures from all federal revenue sources, except for amounts received under United States Public Law 81-874;

D. Transportation costs not associated with transporting students from home to school and back home each day; and

E. Costs payable to the Maine State Retirement System under Title 5, section 17154, subsections 10 and 11.

**32-B. Transportation operating costs.** "Transportation operating costs" means all costs incurred in the transportation of pupils in kindergarten to grade 12, including lease costs for bus garage and maintenance facilities and lease-purchase costs that the school administrative unit may apply to the purchase of bus garage and maintenance facilities, when the leases and lease-purchase agreements have been approved by the commissioner, but excluding the costs of bus purchases and excluding all costs not associated with transporting students from home to school and back home each day. The amount includable for determining the subsidy for a school administrative unit for lease-purchase of bus garage and maintenance facilities may not exceed the amount for the lease of a comparable facility.

**32-C. Vocational education costs.** "Vocational education costs" for subsidy purposes means all costs incurred by the vocational regions, centers or satellites in providing approved secondary school vocational education programs, excluding transportation, capital costs and debt service.

**32-D. Year.** "Year" means a fiscal year starting July 1st and ending June 30th of the succeeding year.

**33. Year of funding.** "Year of funding" means the fiscal year during which state subsidies are disbursed to school administrative units, except as specified in section 15005, subsection 1.

**Sec. D-38. 20-A MRSA §15673**, as repealed and replaced by PL 2003, c. 712, §13, is repealed.

**Sec. D-39. 20-A MRSA §15675, sub-§1**, as enacted by PL 2003, c. 504, Pt. A, §6, is amended to read:

**1. Limited English proficiency students.** The additional weights for school administrative units with limited English proficiency students are as follows:

- A. For a school administrative unit with 15 or fewer limited English proficiency students, the unit receives an additional weight of .50 per student;
- B. For a school administrative unit with more than 15 and fewer than 251 limited English proficiency students, the unit receives an additional weight of .30 per student; and
- C. For a school administrative unit with 251 or more limited English proficiency students, the unit receives an additional weight of .60 per student.

Eligibility for state funds under this subsection is limited to school administrative units that are providing services to limited English proficient students through programs approved by the department.

**Sec. D-39-A. 20-A MRSA §15675, sub-§3,** is amended to read:

**3. Kindergarten ~~to~~ through grade 2 students.** If a school administrative unit is eligible to receive targeted funds for its kindergarten ~~to~~ through grade 2 program under section 15681, then for each kindergarten ~~to~~ through grade 2 student, the unit receives an additional weight of .10.

A. For purposes of the additional weight under this subsection, the count of kindergarten ~~to~~ through grade 2 students is calculated based on the number of resident pupils in the most recent calendar year.

B. Only school administrative units with a kindergarten ~~to~~ through grade 2 program approved by the department are eligible for funds pursuant to this subsection or other comparable index.

C. Funds provided pursuant to this subsection may be expended only on behalf of kindergarten ~~to~~ through grade 2 students.

**Sec. D-40. 20-A MRSA §15676,** as enacted by PL 2003, c. 504, Pt. A, §6, is amended to read:

### **§15676. EPS per-pupil rate**

For each school administrative unit, the commissioner shall calculate the unit's ~~per-pupil guarantee~~ EPS per-pupil rate for each year as the sum of:

**1. Teaching staff costs.** The salary and benefit costs for school level teaching staff that are necessary to carry out this Act, calculated in accordance with section 15678 and adjusted by the regional adjustment under section 15682 and reduced by the amount of all funds received by the school administrative unit under Title I of the federal Elementary and Secondary Education Act of 1965, 20 United States Code, Section 6301 et seq. during the most recent fiscal year;

**2. Other staff costs.** The salary and benefit costs for school-level staff who are not teachers, but including substitute teachers, that are necessary to carry out this Act, calculated in accordance with section 15679 and adjusted by the regional adjustment under section 15682 and reduced by the amount of all funds received by the school administrative unit under Title I of the federal Elementary and Secondary Education Act of 1965, 20 United States Code, Section 6301 et seq. during the most recent fiscal year; and

**3. Additional costs.** The per-pupil amounts not related to staffing, calculated in accordance with section 15680.

The EPS per-pupil rate is calculated on the basis of which schools students attend. For school administrative units that do not operate their own schools, the EPS per-pupil rate is calculated under section 15676-A.

**Sec. D-41. 20-A MRSA §15676-A** is enacted to read:

**§15676-A. EPS per-pupil rate for units that do not operate schools**

**1. Definitions.** For purposes of this section, the following terms have the following meanings.

A. "Receiving unit" means the school administrative unit to which students are sent by the sending unit.

B. "Receiving unit cost" means the amount arrived at by multiplying the receiving unit's EPS rate by the number of students sent to that unit by the sending unit.

C. "Sending unit" means the school administrative unit sending students to other school administrative units.

**2. Calculation of EPS per-pupil rate.** For school administrative units that do not operate certain types of schools, the commissioner shall calculate that unit's EPS per-pupil rate for each year as follows.

A. For units that do not operate elementary grade schools, the EPS per-pupil rate for elementary grades is calculated by multiplying the number of students sent by the sending unit to an elementary grade receiving unit multiplied by the receiving unit's EPS per-pupil rate for elementary grades and the result divided by the number of students sent by the sending unit to that elementary grade receiving unit. If the sending unit sends students to more than one elementary grade receiving unit, then the elementary grade receiving unit cost for each student sent by the sending unit is added and the result divided by the total number of students sent to elementary grade receiving units by the sending unit. The result is the average elementary grade EPS per-pupil rate for the sending unit.

The EPS per-pupil rate for private schools approved for tuition purposes under chapter 117 is the statewide average EPS per-pupil rate for elementary grades. The elementary attending student count is the most recent October 1st count prior to the allocation year.

B. For units that do not operate secondary grade schools, the EPS per-pupil rate for secondary grades is calculated by multiplying the number of students sent by the sending unit to a secondary grade receiving unit

multiplied by the receiving unit's EPS per-pupil rate for secondary grades and the result divided by the number of students sent by the sending unit to that secondary grade receiving unit. If the sending unit sends students to more than one secondary grade receiving unit, then the secondary grade receiving unit cost for each student sent by the sending unit is added and the result divided by the total number of students sent to secondary grade receiving units by the sending unit. The result is the average secondary grade EPS per-pupil rate for the sending unit.

The EPS per-pupil rate for private schools approved for tuition purposes under chapter 117 is the statewide average EPS per-pupil rate for secondary grades. The secondary attending student count is the most recent October 1st count prior to the allocation year.

**Sec. D-42. 20-A MRSA §15681**, as enacted by IB 2003, c. 2, §1, is repealed.

**Sec. D-42-A. 20-A MRSA §15681, sub-§1**, is amended to read:

**1. Eligibility.** In order for a school administrative unit to receive targeted funds under this section, the school administrative unit must meet the following eligibility criteria.

C. To receive targeted kindergarten through grade 2 funds calculated pursuant to subsection 4, the school administrative unit must be in compliance with any applicable reporting requirements for local early childhood programs. Any program must be in compliance with Chapter 203, sub-chapter II of this Title.

**Sec. D-43. 20-A MRSA §15681-A** is enacted to read:

**§15681-A. Other subsidizable costs**

The following are other subsidizable costs.

**1. Bus purchases.** Bus purchase costs.

**2. Special education costs.** Beginning in fiscal year 2005-06, a school administrative unit receives an additional weight of at least 1.20 but not greater than 1.40 for each special education student identified on the annual December 1st child count as required by the federal Individuals with Disabilities Education Act for the most recent year, up to a maximum of 15% of the school administrative unit resident's pupils as determined under section 15674, subsection 1, paragraph C, subparagraph (1). For those school administrative units in which the annual December 1st child count for the most recent year is less than 15% of the school administrative unit's resident pupils as determined under section 15674, subsection 1, paragraph C, subparagraph (1), the special



education child count percentage may not increase more than 0.5% in any given year, up to a maximum of 1.0% in any given 3-year period. For each special education student above the 15% maximum, the unit receives an additional weight of .38. In addition, each school administrative unit must receive additional funds:

A. For lower staff-student ratios and expenditures for related services for school administrative units with fewer than 20 special education students identified on the annual December 1st child count as required by the federal Individuals with Disabilities Education Act for the most recent year;

B. For high-cost in-district special education placements. Additional funds must be allocated for each student estimated to cost 3 times the statewide special education EPS per-pupil rate;

C. For high-cost out-of-district special education placements. Additional funds must be allocated for each student estimated to cost 4 times the statewide special education EPS per-pupil rate; and

D. To ensure the school administrative unit meets the federal maintenance of effort requirement for receiving federal Individuals with Disabilities Education Act funds.

The commissioner shall develop an appeals procedure for calculated special education costs for school administrative units.

**3. Transportation costs.** For fiscal year 2005-06, the commissioner, using information provided by a statewide education policy research institute, shall establish a per-pupil transportation cost for each school administrative unit based on an analysis of the most recent year's reported transportation expenditures and a predicted per-pupil transportation cost based on the number of resident pupils, the number of miles of Class 1 to Class 5 roads in the school administrative unit and any approved adjustments. In fiscal year 2005-06 the established per-pupil transportation cost for each school administrative unit is the most recent year's reported transportation expenditures or predicted per-pupil transportation cost, plus 10%, whichever is lower. Beginning in fiscal year 2006-07, and for each subsequent fiscal year, the per-pupil transportation costs for each school administrative unit are its established costs for the most recent year adjusted by the Consumer Price Index or other comparable index. For fiscal years 2005-06 and 2006-07, in no case may the per-pupil transportation costs for a school administrative unit be less than 75% of the established costs for the most recent fiscal year. Every 3 years, the commissioner, using information provided by a statewide education policy research institute, shall examine and may adjust reported transportation expenditures and predicted transportation costs. The commissioner shall

develop an appeals procedure for established per-pupil transportation costs for school administrative units.

**4. Vocational education costs.** Vocational education costs in the base year adjusted to the year prior to the allocation year.

**5. Gifted and talented education costs.** Gifted and talented costs in the base year adjusted to the year prior to the allocation year.

**Sec. D-44. 20-A MRSA §15682**, as enacted by IB 2003, c. 2, §1, is repealed.

**Sec. D-45. 20-A MRSA §15683**, as amended by PL 2003, c. 712, §14, is further amended to read:

**§15683. Total operating allocation**

For each school administrative unit, that unit's total operating allocation is the base total set forth in subsection 1 as adjusted in accordance with subsection 2 and including the total amount ~~for subsection 3~~ of other subsidizable costs as described in section 15681-A.

**1. Base total.** The base total of a school administrative unit's total operating allocation is the sum of:

A. The product of the school administrative unit's kindergarten to grade 8 ~~per-pupil-guarantee~~ EPS per-pupil rate multiplied by the total of the kindergarten to grade 8 portions of the following pupil counts:

- (1) The pupil count set forth in section 15674, subsection 1, paragraph C;
- (2) The additional weight for limited English proficiency students calculated pursuant to section 15675, subsection 1; and
- (3) The additional weight for economically disadvantaged students calculated pursuant to section 15675, subsection 2;

B. The product of the school administrative unit's grade 9 to 12 ~~per-pupil-guarantee~~ EPS per-pupil rate multiplied by the total of the grade 9 to 12 portion of the following pupil counts:

- (1) The pupil count set forth in section 15674, subsection 1, paragraphs A, B and C;
- (2) The additional weight for limited English proficiency students calculated pursuant to section 15675, subsection 1; and

(3) The additional weight for economically disadvantaged students calculated pursuant to section 15675, subsection 2;

C. If the school administrative unit is eligible for targeted student assessment funds pursuant to section 15681, subsection 1, the sum of:

- (1) The product of the elementary school level and middle school level per-pupil amount for targeted student assessment funds calculated pursuant to section 15681, subsection 2 multiplied by the kindergarten to grade 8 portion of the pupil count calculated pursuant to section 15674, subsection 1, paragraph C, subparagraph (1); and
- (2) The product of the high school level per-pupil amount for targeted student assessment funds calculated pursuant to section 15681, subsection 2 multiplied by the grade 9 to 12 portion of the pupil count calculated pursuant to section 15674, subsection 1, paragraph C, subparagraph (1);

D. If the school administrative unit is eligible for targeted technology resource funds pursuant to section 15681, subsection 1, the sum of:

- (1) The product of the elementary school level and middle school level per-pupil amount for targeted technology resource funds calculated pursuant to section 15681, subsection 3 multiplied by the kindergarten to grade 8 portion of the pupil count calculated pursuant to section 15674, subsection 1, paragraph C, subparagraph (1); ~~and~~
- (2) The product of the high school level per-pupil amount for targeted technology resource funds calculated pursuant of section 15681, subsection 3 multiplied by the grade 9 to 12 portion of the pupil count calculated pursuant to section 15674, subsection 1, paragraph C, subparagraph (1); ~~and~~

E. If the school administrative unit is eligible for targeted kindergarten ~~to through~~ grade 2 funds pursuant to section 15681, subsection 1, the product of the ~~per-pupil guarantee~~ EPS per-pupil rate multiplied by the additional weight for kindergarten ~~to through~~ grade 2 calculated pursuant to section 15675, subsection 3-; and

F. A isolated small unit adjustment. A school administrative unit is eligible for an isolated small school adjustment when the unit meets the size and distance criteria as established by the commissioner and approved by the state board. The amount of the adjustment is the result of adjusting the isolated-student-to-staff ratios determined in section

15679, subsection 2, the per-pupil amount for operation and maintenance of plant in section 15680, subsection 1, paragraph B or other essential programs and services components in chapter 606-B, as recommended by the commissioner.

**2. Adjustments.** The base total calculated pursuant to subsection 1 must be adjusted as follows.

~~A. The base total calculated pursuant to subsection 1 must be reduced by the amount of all funds received by the school administrative unit under Title I of the federal Elementary and Secondary Education Act of 1965, 20 United States Code, Section 6301 et seq. during the most recent fiscal year.~~

~~B. The amount calculated pursuant to paragraph A must be adjusted by the regional adjustment pursuant to section 15682.~~

C. The amount calculated pursuant to ~~paragraph B~~ this subsection excluding other subsidizable costs must be multiplied by the essential programs and services transition percentage for the appropriate year in accordance with section 15671, subsection 7, paragraph A.

**Sec. D-46. 20-A MRSA §15683**, as enacted by IB 2003, c. 2, §1, is repealed.

**Sec. D-47. 20-A MRSA §15683-A** is enacted to read:

**§15683-A. Total debt service allocation**

For each school administrative unit, that unit's total debt service allocation is the base total defined in section 15672, subsection 2-A.

**Sec. D-48. 20-A MRSA §15684**, as enacted by PL 2003, c. 712, §15 and IB 2003, c. 2, §1, is repealed.

**Sec. D-49. 20-A MRSA §15685**, as enacted by PL 2003, c. 504, Pt. A, §6 and IB 2003, c. 2, §1, is repealed.

**Sec. D-50. 20-A MRSA §15688, sub-§1, ¶¶B and C**, as enacted by PL 2003, c. 712, §17, are amended to read:

~~B. The program cost allocation as used in chapter 606 and~~

~~C. The debt service allocation as used in chapter 606~~

**Sec. D-51. 20-A MRSA §15688, sub-§1, ¶¶B and C**, as enacted by PL 2003, c. 712, §17, are amended to read:

B. ~~The program cost allocation as used in chapter 606~~ other subsidizable costs described in section 15681-A; and

C. ~~The total debt service allocation as used in chapter 606~~ described in section 15683-A.

**Sec. D-52. 20-A MRSA §15689, sub-§§1 and 3**, as enacted by PL 2003, c. 712, §17, are amended to read:

**1. Minimum state allocation.** Each school administrative unit must be guaranteed a minimum state share of its total allocation that is determined by the sum of the following:

A. Multiplying 5% of each school administrative unit's essential programs and services per-pupil elementary rate by the average number of resident kindergarten to grade 8 pupils as determined under section 15674, subsection 1, paragraph C, subparagraph (1); and

B. Multiplying 5% of each school administrative unit's essential programs and services per-pupil secondary rate by the average number of resident grade 9 to grade 12 pupils as determined under section 15674, subsection 1, paragraph C, subparagraph (1).

These funds must be ~~included as part of~~ an adjustment to the school administrative unit's total state and local allocation as computed under this chapter and not as an adjustment to the school administrative unit's total allocation after the state and local allocation has been adjusted for debt service pursuant to subsection 2.

**3. Adjustment limitations.** The amounts of the adjustments paid to school administrative units or municipalities ~~in subsections 1 and 2~~ pursuant to this section are limited to the amounts appropriated by the Legislature for these adjustments.

**Sec. D-53. 20-A MRSA §15689, sub-§§4 to 6** are enacted to read:

**4. Audit adjustments.** The following provisions apply to audit adjustments.

A. If errors are revealed by audit and by the commissioner, the school administrative unit's state subsidy must be adjusted to include corrections.

B. If audit adjustments are discovered after the funding level is certified by the commissioner and the state board on December 15th pursuant to section 15689-C, the department may request the necessary additional

funds, if any, to pay for these adjustments. These amounts, if any, are in addition to the audit adjustment amount certified by the commissioner and state board on the prior December 15th.

**5. Adjustment for cost of educating eligible students in long-term drug treatment centers.** A school administrative unit that operates an educational program approved pursuant to chapter 327 to serve eligible students in licensed drug treatment centers must be reimbursed in the year in which costs are incurred as follows.

A. Reimbursements must be limited to a maximum of 12 state average tuition rates a year for each approved plan.

B. The rate of reimbursement per student may not exceed the state average tuition rates in effect during the year of placement as computed under sections 5804 and 5805. The tuition rates must be computed based on the state average secondary tuition rate and may be adjusted if the program is approved to operate beyond the 180-day school year.

**6. Adjustment for uncertified personnel.** The commissioner shall reduce the state share of the total allocation to a school administrative unit in the current year or following year by an amount that represents the state share of expenditures for salaries and benefits paid to uncertified personnel.

**Sec. D-54. 20-A MRSA §§15689-A to 15689-F are enacted to read:**

**§15689-A. Authorization of payment of miscellaneous costs**

**1. Payment of state agency client costs.** State agency client costs are payable pursuant to this subsection. As used in this subsection, "state agency client" has the same meaning as defined in section 1, subsection 34-A.

A. The commissioner shall approve special education costs and supportive services, including transportation, for all state agency clients placed in residential placements by an authorized agent of a state agency.

B. Special education costs authorized by this subsection for state agency clients must be paid by the department in the allocation year at 100% of actual costs.

C. The commissioner shall pay only approved special education costs and supportive services, including transportation, authorized by this subsection for state agency clients and may not allocate for those special education costs and supportive services, including transportation, incurred by the school administrative unit for state

agency clients in the base years starting July 1, 1985, and every base year thereafter.

D. Transportation costs for state agency clients, when provided in accordance with rules established by the commissioner under section 7204, must be paid by the department in the allocation year at 100% of actual costs.

**2. Education of institutional residents.** The commissioner may pay tuition to school administrative units or private schools for institutional residents within the limits of the allocation made under this section.

**3. Essential programs and services components contract.** The commissioner may contract for the updating of the essential programs and services component with a statewide education research institute.

**4. Learning results implementation, assessment and accountability.** The commissioner may expend and disburse funds limited to the amount appropriated by the Legislature to carry out the purposes of Public Law 1995, chapter 649, sections 5 and 8.

**5. Regionalization, consolidation and efficiency assistance.** The commissioner may expend and disburse funds limited to the amount appropriated by the Legislature to carry out the purposes of promoting regionalization, consolidation and efficiency.

**6. Education research contract.** The commissioner may contract for the compilation and analysis of education data with a statewide education research institute.

**7. Laptop program.** The commissioner may pay cost attributed to the contracted support services and annual payments for middle school laptop program.

**8. Emergency Bus Loan.** The commissioner may pay annual payments for the emergency bus loan.

**9. Data Management and Support Services for Essential Programs and Services.** The commissioner may pay cost attributed to system maintenance and staff support necessary to implement the requirements of the Essential Programs and Services Funding Act.

**10. Disbursement limitations.** The funds disbursed in accordance with this section are limited to the amounts appropriated by the Legislature for these purposes.

**§15689-B. Authorization and schedules of payment of state subsidy; appeals**

**1. Schedules of payment of unit allocation.** The commissioner shall authorize state subsidy payments to the school administrative units to be made in accordance with time schedules set forth in sections 15005, 15689-D and 15901 to 15910.

**2. Notification of allocation; commissioner's duty; superintendent's duty.** The following provisions apply to notification of allocation by the commissioner and each superintendent.

A. The commissioner shall annually, prior to February 1st, notify each school board of the estimated amount to be allocated to the school administrative unit.

B. Each superintendent shall report to the municipal officers whenever the school administrative unit is notified of the allocation or a change is made in the allocation resulting from an adjustment.

**3. Payments of state subsidy to unit's treasurer; basis.** State subsidy payments must be made directly to the treasurer of each school administrative unit. The payments must be based on audited financial reports submitted by school administrative units.

**4. Appeals.** A school board may appeal the computation of state subsidy for the school administrative unit to the state board in writing within 30 days of the date of notification of the computed amount. The state board shall review the appeal and make an adjustment if in its judgment an adjustment is justified. The state board's decision is final as to facts supported by the record of the appeal.

**5. School purpose expense requirement.** Notwithstanding any other law, money allocated for school purposes may be expended only for school purposes.

**6. Balance of allocations.** Notwithstanding any other law, general operating fund balances at the end of a school administrative unit's fiscal year must be carried forward to meet the unit's needs in the next year or over a period not to exceed 3 years. Unallocated balances in excess of 3% of the previous fiscal year's school budget must be used to reduce the state and local share of the total allocation for the purpose of computing state subsidy. School boards may carry forward unallocated balances in excess of 3% of the previous year's school budget and disburse these funds in the next year or over a period not to exceed 3 years.



**7. Required data; subsidy payments withheld.** A school administrative unit shall provide the commissioner with information that the commissioner requests to carry out the purposes of this chapter, according to time schedules that the commissioner establishes. The commissioner may withhold monthly subsidy payments from a school administrative unit when information is not filed in the specified format and with specific content and within the specified time schedules.

**8. Unobligated balances.** Unobligated balances from amounts appropriated for general purpose aid for local schools may not lapse but must be carried forward to the next fiscal year.

**§15689-C. Commissioner's recommendation for funding levels; computations**

**1. Annual recommendation.** Prior to December 15th of each year, the commissioner, with the approval of the state board, shall recommend to the Governor and the Department of Administrative and Financial Services, Bureau of the Budget the funding levels that the commissioner recommends for the purposes of this chapter.

**2. Funding level computations.** The following are the funding level computations that support the commissioner's funding level recommendations:

A. The requested funding levels for the operating allocation under section 15683;

B. The requested funding levels for debt service under section 15683-A, which are as follows:

(1) The known obligations and estimates of anticipated principal and interest costs for the allocation year;

(2) The expenditures for the insured value factor for the base year;

(3) The level of lease payments and lease-purchase payments pursuant to section 15672, subsection 2-A for the year prior to the allocation year; and

(4) Funds allocated by the state board for new school construction projects funded in the current fiscal year;

C. The requested funding levels for adjustments under section 15689, which must be computed by estimating costs for the allocation year; and

D. The requested funding levels for miscellaneous costs under section 15689-A.

**3. Guidelines for updating other subsidizable costs.** The commissioner's recommendation for updating percentages to bring base year actual costs to the equivalent of one-year-old costs may not exceed the average of the 2 most recent percentages of annual increase in the Consumer Price Index.

**§15689-D. Governor's recommendation for funding levels**

The Department of Administrative and Financial Services, Bureau of the Budget shall annually certify to the Legislature the funding levels that the Governor recommends under sections 15683, 15683-A, 15689 and 15689-A. The Governor's recommendations must be transmitted to the Legislature within the time schedules set forth in Title 5, section 1666.

**§15689-E. Actions by Legislature**

The Legislature shall annually, prior to March 15th, enact legislation to:

**1. Appropriation for state share of adjustments, debt service and operating; single account.** Appropriate the necessary funds for the State's share for general purpose aid for local schools with a separate amount for each of the following components:

A. Adjustments and miscellaneous costs described in sections 15689 and 15689-A, including an appropriation for special education pupils placed directly by the State, for:

(1) Tuition and board for pupils placed directly by the State in accordance with rules adopted or amended by the commissioner; and

(2) Special education tuition and other tuition for residents of state-operated institutions attending programs in school administrative units or private schools in accordance with rules adopted or amended by the commissioner; and

B. The state share of the total operating allocation and the total debt service allocation described in sections 15683 and 15683-A; and

**2. Local cost share expectation.** Establish the local cost share expectation described in section 15671-A.

Funds for appropriations under this section must be placed in a single account.

## **§15689-F. Actions by department**

Within the annual appropriations, the department shall follow the procedures described in this section.

**1. State's obligation.** If the State's continued obligation for any program provided by one of the appropriated amounts under section 15689-E exceeds the appropriated amount, any unexpended balance from another of those appropriated amounts may be applied by the commissioner toward the obligation for that program.

**2. Cash flow.** For the purpose of cash flow, the commissioner may pay the full state and local share of the payment amounts due on bond issues for school construction from that school administrative unit's state subsidy, excluding payments on non-state-funded projects. This subsection does not apply if a school administrative unit has less subsidy than the total principal and interest payment on bonds.

**Sec. D-55. 20-A MRSA §§15690 to 15695** are enacted to read:

## **§15690. Local appropriations**

Beginning with the budget for the 2005-2006 school year, the following provisions apply to local appropriations for school purposes.

**1. School administrative unit contribution to total cost of funding public education from kindergarten to grade 12.** The legislative body of each school administrative unit may vote to raise and appropriate an amount up to the local share of the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in section 15688.

A. For a municipal school unit, an article in substantially the following form must be used when a single municipal school administrative unit is considering the appropriation of the local share of the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in section 15688.

(1) "Article     : To see what sum the municipality will appropriate for the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act (Recommend \$     ) and to see what sum the municipality will raise as the municipality's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services

Funding Act in accordance with the Maine Revised Statutes, Title 20-A, section 15688. (Recommend \$ \_\_\_\_.)"

(2) The following statement must accompany the article in subparagraph (1). "Explanation: The school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act is the amount of money determined by state law to be the minimum amount that a municipality must raise in order to receive the full amount of state dollars."

B. For a school administrative district or a community school district, an article in substantially the following form must be used when the school administrative district or community school district is considering the appropriation of the local share of the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in section 15688.

(1) "Article \_\_\_\_ : To see what sum each municipality will appropriate for the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and to see what sum each municipality will raise as each municipality's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act in accordance with the Maine Revised Statutes, Title 20-A, section 15688 (Recommends):

<u>Total cost by</u>	<u>Municipal local</u>
<u>municipality</u>	<u>contribution</u>
<u>Town A (\$amount)</u>	<u>Town A (\$amount)</u>
<u>Town B (\$amount)</u>	<u>Town B (\$amount)</u>
<u>Town C (\$amount)</u>	<u>Town C (\$amount)</u>
<u>School District</u>	<u>School District</u>
<u>Total (\$sum of above)</u>	<u>Total (\$sum of above)</u>

(2) The following statement must accompany the article in subparagraph (1). "Explanation: The school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential

Programs and Services Funding Act is the amount of money determined by state law to be the minimum amount that each municipality must raise in order to receive the full amount of state dollars."

C. The state share of the total cost of funding public education from kindergarten to grade 12 as described in section 15688, excluding state-funded debt service for each school administrative unit, is limited to the same proportion as the local school administrative unit raises of its local share of the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in section 15688, excluding state-funded debt service.

**2. Non-state-funded debt service.** For each school administrative unit's contribution to debt service for non-state-funded major capital school construction projects or non-state-funded portions of major capital school construction projects, the legislative body of each school administrative unit may vote to raise and appropriate an amount up to the municipality's or district's annual payments for non-state-funded debt service.

A. An article in substantially the following form must be used when a school administrative unit is considering the appropriation for debt service allocation for non-state-funded school construction projects or non-state-funded portions of school construction projects.

(1) "Article     : To see what sum the (municipality or district) will raise for the annual debt service payments on a non-state-funded school construction project or non-state-funded portion of a school construction project in addition to the funds appropriated as the local share of the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12. (Recommend \$     .)"

(2) The following statement must accompany the article in subparagraph (1). "Explanation: Non-state-funded debt service is the amount of money needed for the annual payments on the (municipality's or district's) long-term debt for major capital school construction that is not approved for state subsidy. The bonding of this long-term debt was approved by the voters on (date of original referendum)."

**3. Additional local appropriation.** A school administrative unit may raise and expend funds for educational purposes in addition to the funds under subsections 1 and 2.

A. An article in substantially the following form must be used when a school administrative unit is considering the appropriation of additional local funds:

(1) "Article     : To see what sum the (municipality or district) will raise and to appropriate the sum of (Recommend \$     ) in additional local funds for school purposes under the Maine Revised Statutes, Title 20-A, section 15690. (Recommend \$     )."

(2) The following statement must accompany the article in subparagraph (1). "Explanation: The additional local funds are those locally raised funds over and above the school administrative unit's local contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and local amounts raised for the annual debt service payment on non-state-funded school construction projects or the non-state-funded portion of a school construction project that will help achieve the (municipality's or district's) budget for educational programs."

B. An article in substantially the following form must also be used when a school administrative unit is considering an appropriation of additional local funds that exceeds the maximum state and local spending target defined in section 15671-A, subsection 4.

(1) "Article     : Do you favor adopting a budget that exceeds those costs considered reasonably necessary according to the essential programs and services funding model by (Recommend \$     ) for the purpose of (insert purpose)?"

**4. Total budget article.** A school administrative unit must include a summary article indicating the total annual budget for funding public education from kindergarten to grade 12 in the school administrative unit. The amount recommended must be the gross budget of the school system. This article does not provide money unless the other articles are approved.

A. "Article     : To see what sum the (municipality or district) will authorize the school committee to expend for the fiscal year beginning (July 1,     ) and ending (June 30,     ) from the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act, non-state-funded school construction projects, additional local funds for school purposes under the Maine Revised Statutes, Title 20-A, section 15690, unexpended balances, tuition

receipts, state subsidy and other receipts for the support of schools.  
(Recommend \$ \_\_\_\_.)"

**5. Vote.** Actions taken pursuant to subsections 1 to 4 must be taken by a recorded vote.

**6. Administrative costs for units with no pupils.** If a school administrative unit is required to pay administrative costs and has no allocation of state or local funds, that unit may raise and expend funds for administrative costs.

#### **§15691. Municipal assessment paid to district**

**1. Presentation of assessment schedule.** The assessment schedule based on the budget approved at a community school district or school administrative district budget meeting must be presented to the treasurer of each municipality that is a member of the district.

The assessment schedule must include each member municipality's share of the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in section 15688, the school administrative unit's contribution to debt service for non-state-funded school construction projects and additional local funds for school purposes under section 15690.

**2. Municipal treasurer's payment schedule.** The treasurer of the member municipality, after being presented with the assessment schedule, shall forward 1/12 of that member municipality's share to the treasurer of the district on or before the 20th day of each month of the fiscal year beginning in July.

#### **§15692. Special school districts**

**1. School administrative unit.** For the purposes of section 15695 and Title 20, sections 3457 to 3460, a special school district is deemed to be a school administrative unit.

**2. Debt service.** Debt service on bonds or notes issued by a special school district must be included in the school budget of the school administrative unit that operates the schools constructed by that district. The school board for the school administrative unit that operates the special district's schools shall pay to the special school district all sums necessary to meet the payments of principal and interest on bonds or notes when due and to cover maintenance or other costs for which the special school district is responsible.

### **§15693. School budget; budget formats**

**1. Content.** A school administrative unit shall include in its school budget document:

A. The school administrative unit's total cost of funding public education from kindergarten to grade 12, its non-state-funded debt service, if any, and any additional expenditures authorized by law;

B. A summary of anticipated revenues and estimated school expenditures for the fiscal year; and

C. The following statement, including the estimated dollar amount of state retirement payments: "This budget does not include the estimated amount of \$ \_\_\_\_\_ in employer share of teacher retirement costs that is paid directly by the State."

**2. Budget deadlines.** The following time limitations apply to adoption of a school budget under this section.

A. At least 7 days before the initial meeting of the legislative body responsible for adopting a budget, the school administrative unit shall provide a detailed budget document to that legislative body and to any person who requests one and resides within the geographic area served by the school administrative unit.

B. Notwithstanding a provision of law or charter to the contrary, school administrative units may adopt an annual budget prior to June 30th. The school budgets for career and technical education regions must be adopted on or before August 1st.

C. Notwithstanding any municipal charter provision, ordinance or other law to the contrary, if the level of state subsidy for the next school year is not finalized in accordance with this chapter before June 1st, the school board may delay a school budget meeting otherwise required to be held before July 1st to a date after July 1st. If a school board elects to delay a school budget meeting under this paragraph, the meeting must be held and the budget approved within 30 days of the date the commissioner notifies the school board of the amount allocated to the school administrative unit under section 15689-B. When a school budget meeting is delayed under this paragraph, the school administrative unit may continue operation of the unit at the same budget levels as were approved for the previous year. Continued operation under the budget for the previous year is limited to the time between July 1st and the date the new budget goes into effect.



**3. Budget format.** The following provisions apply to a budget format.

A. Except as provided in subsection 4, the budget format is that prescribed by a majority of the school board until an article prescribing the school budget format is approved by a majority of voters in an election in which the total vote is at least 20% of the number of votes cast in the municipality in the last gubernatorial election, or 200, whichever is less.

B. The format of the school budget may be determined in accordance with section 1306.

C. It is the intent of the Legislature that a school board shall attempt to obtain public participation in the development of the school budget format.

**4. Budget format; town or city charter.** In a municipality where the responsibility for final adoption of the school budget is vested by municipal charter in a council, the school budget format may be changed through amendment of the charter under the home rule procedures of Title 30-A, chapter 111, except that the amendment must be approved by a majority of voters in an election in which the total vote is at least 20% of the number of votes cast in the municipality in the last gubernatorial election.

**5. Budget format; town meeting.** When the final budget authority is vested in a town meeting operating under the general enabling procedures of Title 30-A, the format of the school budget may be determined by the town meeting or under the procedures of Title 30-A, section 2522 or 2528.

**6. Budget format; community school district.** The following provisions apply to the budget format of a community school district.

A. An article containing the district's proposed budget format must be placed on the next warrant issued or ballot printed if:

(1) A majority of the district school committee votes to place it on the warrant or ballot; or

(2) A written petition signed by at least 10% of the number of voters voting in the last gubernatorial election in each municipality within the community school district requests it to be on the warrant or ballot.

B. The article containing the budget format may be voted on by secret ballot at an election conducted in accordance with Title 30-A, sections 2528 to 2532.

C. The district school committee shall:

(1) Issue a warrant specifying that the municipal officers of the municipalities within the community school district shall place the budget format article on the secret ballot; and

(2) Prepare and furnish the required number of ballots for carrying out the election, including absentee ballots.

**7. Budget format; articles.** The articles prescribed in this chapter must be included in the budget format and be voted on in the adoption of the budget in order to determine state and local cost sharing.

**8. Change in budget format.** Any change in the budget format must be voted on at least 90 days prior to the budget year for which that change is to be effective.

#### **§15694. Actions on budget**

The following provisions apply to approving a school budget under this chapter.

**1. Checklist required.** Prior to a vote on articles dealing with school appropriations, the moderator of a regular or special school budget meeting shall require the clerk or secretary to make a checklist of the registered voters present. The number of voters listed on the checklist is conclusive evidence of the number present at the meeting.

**2. Reconsideration.** Notwithstanding any law to the contrary, in school administrative units where the school budget is finally approved by the voters, a special budget meeting to reconsider action taken on the budget may be called only as follows.

A. The meeting must be held within 30 days of the regular budget meeting at which the budget was finally approved.

B. In a school administrative district or community school district, the meeting must be called by the school board or as follows.

(1) A petition containing a number of signatures of legal voters in the member municipalities of the school administrative unit equaling at least 10% of the number of voters who voted in the last gubernatorial election in member municipalities of the school administrative unit, or 100 voters, whichever is less, and specifying the article or articles to be reconsidered must be

presented to the school board within 15 days of the regular budget meeting at which the budget was finally approved.

(2) On receiving the petition, the school board shall call the special budget reconsideration meeting, which must be held within 15 days of the date the petition was received.

C. In a municipality, the meeting must be called by the municipal officers:

(1) Within 15 days after receipt of a request from the school board, if the request is received within 15 days of the budget meeting at which the budget was finally approved and it specifies the article or articles to be reconsidered; or

(2) Within 15 days after receipt of a written application presented in accordance with Title 30-A, section 2532, if the application is received within 15 days of the budget meeting at which the budget was finally approved and it specifies the article or articles to be reconsidered.

**3. Invalidation of action of special budget reconsideration meeting.** If a special budget meeting is called to reconsider action taken at a regular budget meeting, the actions of the meeting are invalid if the number of voters at the special budget meeting is less than the number of voters present at the regular budget meeting.

**4. Line-item transfers.** Meetings requested by a school board for the purpose of transferring funds from one category or line item to another must be posted for voter or council action within 15 days of the date of the request.

### **§15695. Bonds; notes; other**

All bonds, notes or other evidences of indebtedness issued for school purposes by a school administrative unit for major capital expenses, bus purchases or current operating expenses, including tax or other revenue anticipation notes, are general obligations of the unit.

**1. Tax assessments.** The municipal officers or school board shall require the sums that are necessary to meet in full the principal of and interest on the bonds, notes or other evidences of indebtedness issued pursuant to this section payable in each year to be assessed and collected in the manner provided by law for the assessment and collection of taxes.

**2. Reduction.** The sums to be assessed and collected under subsection 1 must be reduced by the amount of an allocation of funds appropriated by the

Legislature to pay the principal and interest owed by the school administrative unit in a given year as certified to the unit by the commissioner. The commissioner shall certify the amount due to the unit within 30 days of its appropriation by the Legislature.

**3. Collection.** After assessment and reduction under subsection 2, the remaining sum must be paid from ad valorem taxes, which may be levied without limit as to rate or amount upon all the taxable property within the school administrative unit.

Sec. D-56. 20-A MRSA c. 608 is enacted to read:

## **CHAPTER 608**

### **SCHOOL FINANCE ACT OF 2003**

#### **§15751. Short title**

This chapter may be known and cited as "the School Finance Act of 2003."

#### **§15752. Mandated legislative appropriations for kindergarten to grade 12 education**

The Legislature each year shall provide at least 55% of the cost of the total allocation for kindergarten to grade 12 education from General Fund revenue sources as established in chapter 606-B.

For the purposes of this chapter, and until such time as the Legislature may implement an alternative school funding system, "total allocation" means the foundation allocation for a year, the debt service allocation for that year, the sum of all adjustments for that year and the total of the additional local appropriations for the prior year. In the event the Legislature implements an alternative school funding model that alters the meaning of the terms used in this Title or otherwise makes obsolete the system of allocations and local appropriations established by this Title, the term "total allocation" as it applies to the mandatory appropriation required by this section means the amount reasonably calculated as the equivalent of this definition.

#### **§15753. Mandated legislative appropriations for special education**

The Legislature shall provide 100% of the state and local cost of providing all special education services mandated under federal or state law, rule or regulation as established in chapter 606-B.

For the purposes of the mandatory appropriation required by this section, and in accordance with the essential programs and services school funding

allocation system established in chapter 606-B, the commissioner shall identify and provide in the commissioner's recommendation pursuant to section 15689-C the total costs to the individual school administrative units associated with providing all special education services mandated under federal or state law, rule or regulation for the school year associated with the commissioner's recommendation. In addition to any appropriations required by section 15689-E, the Legislature shall appropriate and ensure the accurate distribution of the total amount identified by the commissioner, adjusted by the federal reimbursements for the costs of special education services mandated by federal or state law, rule or regulation that will be provided to the individual school administrative units for that same school year.

#### **§15754. Fund for the Efficient Delivery of Educational Services**

The Fund for the Efficient Delivery of Educational Services, referred to in this section as "the fund," is established.

Two percent of the funds annually appropriated pursuant to this chapter must be dedicated to the fund and distributed from the fund to those school administrative units and municipalities that can demonstrate significant and sustainable savings in the cost of delivering educational services through changes in governance, administrative structure or adopted policy that result in the creation of consolidated school administrative units, broad-based purchasing alliances, enhanced regional delivery of educational services or collaborative school-municipal service delivery or service support systems.

#### **§15755. Entitlement**

The State's school administrative units and municipalities are entitled to the appropriations required by this chapter.

**Sec. D-57. 30-A MRSA §6006-F, sub-§6,** as enacted by PL 1997, c. 787, §13, is amended to read:

**6. Forgiveness of principal payments.** The fund must provide direct grants by forgiving the principal payments of a loan for an eligible school administrative unit. The amount of the forgiveness of principal payments must be determined by the school administrative unit's state share percentage ~~of debt service costs~~ as determined in Title 20-A, section ~~15611~~ 15672, subsection 31, not to exceed:

- A. Seventy percent and no less than 30% for health, safety and compliance;
- B. Seventy percent and no less than 30% for repairs and improvements; and

C. ~~Fifty~~ Seventy percent and no less than ~~20%~~ 30% for learning space upgrades.

**Sec. D-58. Application.** This Part applies to school budgets passed for the fiscal year beginning July 1, 2005, and thereafter.

**Sec. D-59. Effective date.** This Part takes effect July 1, 2005.

## **PART E**

**Sec. E-1. 30-A MRSA §5681, sub-§5, ¶¶A and B,** as amended by PL 2003, c. 2, Pt. W, §1, and notwithstanding any other provision of law, are further amended to read:

A. For months beginning before July 1, ~~2005~~, 2007, 5.1%; and

B. For months beginning on or after July 1, ~~2005~~, 2007, 5.2%.

**Sec. E-2. Calculation and transfer.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in Part B, section 1 that apply against each General Fund account for all departments and agencies from extending the amortization schedule of the unfunded liability and shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to appropriations in fiscal years 2005-06 and 2006-07. The State Budget Officer shall provide the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a report of the transferred amounts no later than January 15, 2007.

**Sec. E-3. Calculation and transfer.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in Part B, section 1 that apply against each Other Special Revenue Funds account for all departments and agencies from extending the amortization schedule of the unfunded liability and shall transfer the calculated amounts to the General Fund by financial order upon the approval of the Governor. These transfers are considered adjustments to allocations in fiscal years 2005-06 and 2006-07, including allocations from the Fund for a Healthy Maine. The State Budget Officer shall provide the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a report of the transferred amounts no later than January 15, 2007. The following Other Special Revenue Funds accounts are exempt from these calculations: the Public Reserved Lands Management Fund account and the Submerged Lands Fund account in

the Department of Conservation; the Baxter State Park Authority account; the AMHI and BMHI Disproportionate Share accounts and the Public Drinking Water Fund account in the Department of Health and Human Services; the Truancy, Dropout and Alternative Education account in the Department of Education; the Administrative Revolving Loan and Project account in the Department of Environmental Protection; the Kennebec Fisheries account in the Department of Marine Resources; the Nongame Endangered Species account in the Department of Inland Fisheries and Wildlife; and the Division of Plant Industry account in the Department of Agriculture.

**Sec. E-4. Calculation and transfer.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in Part B, section 1 that apply against each Highway Fund account for all departments and agencies from extending the amortization schedule of the unfunded liability and shall transfer the calculated amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to allocations in fiscal years 2005-06 and 2006-07.

**Sec. E-5. Appropriation and position transfers.** Notwithstanding any other provision of law, the Governor is authorized by financial order to transfer positions authorized by the Legislature between accounts and between departments and to transfer the available balances of any appropriation or allocation between line categories, accounts and departments in fiscal year 2005-06 and fiscal year 2006-07. When the Governor determines that the transfer of a position is necessary, any incumbent in the transferred position at the time of transfer must be transferred along with the position.

## **PART F**

**Sec. F-1. 4 MRSA §1610-D** is enacted to read:

### **§1610-D. Additional securities**

Notwithstanding any limitation on the amount of securities that may be issued pursuant to section 1606, subsection 2, the authority may issue additional securities in an amount not to exceed \$9,000,000 outstanding at any one time for preliminary planning costs and capital repairs and improvements at various state facilities.

**Sec. F-2 Maine Governmental Facilities Authority; resolution for issuance of securities.** Pursuant to the Maine Revised Statutes, Title 4, section 1606, subsection 2 and section 1610-C, and notwithstanding the limitation contained in Title 4, section 1606, subsection 2 regarding the amount of securities that may be issued, the Maine Governmental Facilities Authority is authorized to issue securities in its own name in an

amount up to \$9,000,000 for the purpose of paying the cost, including preliminary planning costs, including but not limited to needs assessments and space planning, master planning, capital asset assessments, concept design, design development, and final design including construction drawings associated with capital repairs and improvements to state-owned facilities throughout the State as designated by the Commissioner of Administrative and Financial Services.

**Sec. F-3. Proceeds.** The proceeds from the sale of the securities issued by the Maine Governmental Facilities Authority pursuant to this Part must be expended for preliminary planning costs and capital repairs and improvements to state-owned facilities.

## **PART G**

**Sec. G-1 36 MRSA §4641-B, sub-§4**, as enacted by PL 2003, c. 20, Pt. V, §4 and affected by §15, is amended to read:

**4. Distribution of State's share of proceeds.** The State Tax Assessor shall pay all net receipts received pursuant to this section to the Treasurer of State, and shall at the same time provide the Treasurer of State with documentation showing the amount of revenues derived from the tax imposed by section 4641-A, subsection 1 and the amount of revenues derived from the tax imposed by section 4641-A, subsection 2. The Treasurer of State shall credit 1/2 of the revenues derived from the tax imposed by section 4641-A, subsection 1 to the General Fund and shall monthly pay the remaining 1/2 of such revenues to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853, except that in fiscal year 2003-04 ~~and~~ fiscal year 2004-05, fiscal year 2005-06 and fiscal year 2006-07, \$7,500,000 of the remaining 1/2 of those revenues must be transferred to the General Fund before any payments are made to the Maine State Housing Authority. The Treasurer of State shall credit to the General Fund all of the revenues derived from the tax imposed by section 4641-A, subsection 2.



## PART H

**Sec. H-1. PL 1995, c. 502, Pt. K, §4** is amended to read:

**Sec. K-4. Fiscal agent for the Governor's Office, Blaine House, State Planning Office, Department of Economic and Community Development and Department of Education.** The Department of Administrative and Financial Services shall serve as the fiscal agent for the Governor's Office, Blaine House, State Planning Office, Department of Economic and Community Development, ~~and Department of Education,~~ Workers' Compensation Board and Commission on Governmental Ethics, to include such functions as processing payment vouchers and contract documents, and handling personnel and payroll matters, financial management services and other related required functions as agreed upon by ~~the~~ all entities.

**Sec. H-2. Review of statewide financial and human resources services to improve efficiency and cost-effectiveness.** The Commissioner of Administrative and Financial Services shall review the current organizational structure of payroll, personnel and accounting units to improve organizational efficiency and cost-effectiveness.

The Commissioner is authorized to identify savings to the General Fund from the improvements identified from the review. Notwithstanding any other provision of law, the State Budget Officer shall transfer the amounts by financial order upon approval of the Governor. These transfers are considered adjustments to appropriations and allocations in fiscal years 2005-06 and 2006-07. The State Budget Officer shall provide the joint standing committee of the Legislature having jurisdiction over appropriation and financial affairs a report of the transferred amounts no later than January 15, 2007.

Notwithstanding any other provision of law, the Commissioner of Administrative and Financial Services or a state official designated by the commissioner shall be responsible for the provisions of financial and human resource services, and provide oversight for all financial and human resource personnel assigned to each agency. Additionally, the commissioner or the commissioner's designee may reassign finance and human resource personnel among agencies as needed to support statewide operations.

**Sec. H-3. Review of statewide information technology functions and systems to improve efficiency and cost-effectiveness.** The Chief Information Officer shall review the current organizational structure, systems, and operations of information technology units to improve organizational efficiency and cost-effectiveness. To assist with this review the Chief Information Officer shall be provided staff resources from the Office of Information Technology and from technology personnel of other agencies. The Chief Information Officer is authorized to identify savings and position eliminations to the General Fund and other funds from the improvements identified from the review. Notwithstanding any other provision of law, the State Budget Officer shall transfer the amounts by financial order upon approval of the Governor. These transfers are considered adjustments to appropriations and allocations in fiscal years 2005-06 and

2006-07. The State Budget Officer shall provide the joint standing committee of the Legislature having jurisdiction over appropriation and financial affairs a report of the transferred amounts no later than January 15, 2007.

Notwithstanding any other provision of law, the Chief Information Officer or the Chief Information Officer's designee shall provide direct oversight over statewide technology services and have oversight over the technology personnel assigned to each agency. Additionally, the Chief Information Officer or the officer's designee may reassign technology personnel among agencies to support statewide technology operations.

**Sec. H-4. Calculation and transfer.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the position count identified in Part B section 1 that applies against each General Fund and Other Special Revenue Fund account in fiscal year 2005-06 and 2006-07 and shall transfer the position count by financial order upon approval of the Governor. These budget transfers are considered an adjustment to position count in fiscal year 2005-06 and 2006-07. The State Budget Officer shall provide the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs with a report of the transferred position count no later than November 1, 2005.

## **Part I**

**Section I-1. Lottery Revenue Securitization, Lease or Sale:** The Commissioner of the Department of Administrative and Financial Services is authorized to enter into financial agreements with the Maine State Retirement System or other qualified investors during FY 2006 and FY 2007 to securitize up to \$250,000,000 of lottery revenues for a ten year period, or lease, sell or otherwise assign lottery revenues for a ten year period. The commissioner may promulgate rules regarding the bid process, commercial terms and structure of the securitization, lease or sale. Annual payments of interest shall commence on June 30, 2008 and be paid on June 30<sup>th</sup> of each year during the term of the investment.

The commissioner shall report periodically to the Joint Standing Committees having jurisdiction over appropriations and financial affairs and legal and veterans affairs as to the progress made and the results of contract negotiations.

The commissioner shall have the authority to retain such professionals and other contractors as may be deemed necessary to evaluate terms of proposals made by potential investors, and provide such advice as the commissioner may require.

**Sec. I-2. 8 MRSA §387 is amended to read:**

### **State Lottery Fund; appropriation of money**

- 1. Appropriation.** The money in the State Lottery Fund may be appropriated only:
  - A. For the payment of prizes to the holders of winning lottery tickets or shares;
  - B. For the expense of the division in its operation of the lottery;
  - C. For payment to the General Fund; ~~and~~
  - D. For payment to the Maine Outdoor Heritage Fund pursuant to Title 12, section 10302- ~~;~~ or
  - E. For payment to a qualified investor during the term of securitization.

## **Part J**

**Sec. J-1. Transfer from unappropriated surplus at close of fiscal year 2005-06.** Notwithstanding any other provision of law, at the close of fiscal year 2005-06 the State Controller shall transfer an amount up to \$11,622,000 available from the unappropriated surplus of the General Fund to the department and agency accounts listed in section 2 after all required deductions of appropriations, budgeted financial commitments and adjustments considered necessary by the State Controller have been made and as the next priority after the transfers required pursuant to the Maine Revised Statutes, Title 5, sections 1507, 1511, 1513, 1517 and 1519.

**Sec. J-2. Priority of transfers.** Transfers made in accordance with section 1 must be expended for the purposes listed in this section in the following amounts and priority order:

1. **Baxter Compensation Authority.** As the first priority, the Authority shall receive up to \$8,122,000 less the transfer amount received from unappropriated surplus at close of fiscal year 2004-05 for use in fiscal year 2005-06. Transfers made to the Baxter Compensation Authority must be expended for claims of former students of the Governor Baxter School for the Deaf and the Maine School for the Deaf.
2. **Higher Education.** As the 2<sup>nd</sup> priority, to the University of Maine System in the following amounts and priority order:
  - A. University of Maine System. As the 2nd priority, \$2,000,000 to the Maine Economic Improvement Fund in the University of Maine System to provide funds for applied research and development at the University of Maine System.
  - B. University of Maine System. As the 2nd priority, \$1,500,000 in fiscal year to be dedicated to facility renovation or renewal needs in order to reduce

deferred maintenance at all institutions in the University of Maine System resulting in improved safety, code compliance and efficiencies at its facilities.

**Sec. J-3. Transferred amounts.** Notwithstanding the Maine Revised Statutes, Title 5, section 1585, the amounts transferred by the State Controller for the purposes listed in section 2 are considered adjustments to appropriations in fiscal year 2006-07. These funds may be allotted by financial order upon recommendation of the State Budget Officer and approval of the Governor. The State Budget Officer shall provide the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs with a report of the transferred amounts no later than January 15, 2007.

## **PART K**

**Sec. K-1. Review of statewide administrative hearing functions to improve efficiency and cost-effectiveness.**

The Commissioner of Administrative and Financial Services shall review the current organizational structure of administrative hearings units and the proceedings conducted by those units, including but not limited to adjudicatory proceedings conducted pursuant to 5 MRSA, c. 375, subchapter IV, workers compensation proceedings conducted pursuant to 39-A MRSA, chapter 7, subchapter 1, other due process hearings and licensing disciplinary proceedings, to improve organizational efficiency and cost effectiveness. The commissioner shall inform the State Budget Officer of the amount of savings from the improvements identified and implemented as a result of the review. Notwithstanding any other provision of law, the State Budget Officer shall transfer the amounts by financial order upon approval of the Governor. These transfers are considered adjustments to appropriations and allocations in fiscal years 2005-06 and 2006-07.

## **PART L**

**Sec. L-1 36 MRSA § 5122, sub-§ 1, ¶ V** as amended by PL 2003, c. 705, §8, is further amended to read:

V. For tax years beginning on or after January 1, 2003 ~~and before January 1, 2006~~, the amount claimed as a federal income adjustment for student loan interest under the Code, Section 62 (a)(17), but only for interest paid after 60 months from the start of the loan repayment period; and

**Sec. L-2. 36 MRSA § 5218, sub-§ 1** as amended by PL 2003, c. 20, Pt. FF, §1, is further amended to read:

**1. Resident taxpayer.** A resident individual is allowed a credit against the tax otherwise due under this Part in the amount of 25% of the federal tax credit allowable for child and dependent care expenses in the same tax year, except that for tax years beginning after 2002 ~~in 2003, 2004 and 2005~~, the applicable percentage is 21.5% instead of 25%.

**Sec. L-3. 36 MRSA § 5218, sub-§ 2** as amended by PL 2003, c. 391, §10, is further amended to read:

**2. Nonresident or part-year resident taxpayer.** A nonresident individual is allowed a credit against the tax otherwise due under this Part in the amount of 25% of the federal tax credit allowable for child and dependent care expenses multiplied by the ratio of the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the individual's entire federal adjusted gross income, as modified by section 5122, except that for tax years beginning after 2002 ~~in 2003, 2004 and 2005~~, the applicable percentage is 21.5% instead of 25%.

**Sec. L-4. 36 MRSA § 5218, sub-§ 2-A** as enacted by PL 2003, c. 391, §10, is amended to read:

**2-A. Part-year resident taxpayer.** An individual who files a return as a part-year resident in accordance with section 5224-A is allowed a credit against the tax otherwise due under this Part in the amount of 25%, 21.5% for tax years beginning after 2002 except that for tax years beginning after 2002, the applicable percentage is 21.5% instead of 25%, of the federal tax credit allowable for child and dependent care expenses multiplied by a ratio, the numerator of which is the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph A for that portion of the taxable year during which the individual was a resident plus the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph B for that portion of the taxable year during which the individual was a nonresident and the denominator of which is the individual's entire federal adjusted gross income, as modified by section 5122.

## **PART M**

**Sec. M-1. 36 MRSA § 4064**, as amended by PL 2003, c. 20, Pt. JJ, § 3, is further amended to read:

A tax is imposed upon the transfer of real property and tangible personal property situated in this State and held by an individual who dies prior to January 1, 2002 or after

December 31, 2002 and who at the time of death was not a resident of this State. When real or tangible personal property has been transferred into a trust, a limited liability company or other pass-through entity the tax imposed by this section applies as if the trust or pass-through entity did not exist and the property was personally owned by the decedent. Maine property is subject to the tax imposed by this section to the extent that such property is included in the decedent's gross estate as finally determined for federal estate tax purposes. The amount of this tax is a sum equal to that proportion of the federal credit that the value of Maine real and tangible personal property taxed in this State that qualifies for the credit bears to the value of the decedent's total federal gross estate. All property values under this section are as finally determined for federal estate tax purposes, except that for estates of decedents dying after December 31, 2002 that do not incur a federal estate tax, all property values are as finally determined by the assessor in accordance with the Code as if the estate had incurred a federal estate tax. The share of the federal credit used to determine the amount of a nonresident individual's estate tax under this section is computed without regard to whether the specific real or tangible personal property located in the State is marital deduction property.

**Sec. M-2. Application.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 4064 applies to estates of decedents dying on or after January 1, 2005.

## **PART N**

**Sec. N-1. 36 M.R.S.A. § 4062, sub-§ 1-A,** as amended by PL 2003, c. 673, Pt. D, § 1, is repealed and the following enacted in its place:

**1-A. Federal credit.** “Federal credit” has the following meanings:

A. For the estates of decedents dying after December 31, 2002, “federal credit” means the maximum credit for state death taxes determined under the Code, Section 2011 as of December 31, 2002 exclusive of the reduction of the maximum credit contained in the Code, Section 2011(b)(2); the period of limitations under the Code, Section 2011(c); and the termination provision contained in the Code, Section 2011(f). The federal taxable estate is to be determined using the applicable Code as of the date of the decedent’s death, except that:

(1) The state death tax deduction contained in the Code, Section 2058 is to be disregarded;

(2) The unified credit is to be determined under the Code, Section 2010 as of December 31, 2000;

(3) For the estates of decedents dying after December 31, 2004, the federal taxable estate shall be decreased by an amount equal to the value of Maine qualified terminable interest property in the estate of the decedent;

(4) For the estates of decedents dying after December 31, 2004, the federal taxable estate shall be increased by an amount equal to the value of Maine elective property in respect of the decedent; and

B. For the estates of all other decedents, "federal credit" means the maximum credit for state death taxes determined under the Code, Section 2011.

**Sec. N-2. 36 M.R.S.A. § 4062, sub-§8 and sub-§9** are enacted to read:

**8. Maine qualified terminable interest property.** “Maine qualified terminable interest property” means property:

A. That is eligible to be treated as qualified terminable interest property under the Code, Section 2056(b)(7);

B. For which no election allowable under the Code, Section 2056(b)(7) is made with respect to the federal estate tax; and

C. With respect to which an election is made, on a return filed timely with the State Tax Assessor, to treat the property as Maine qualified terminable interest property for purposes of the tax imposed by this chapter. The amount of property with respect to which such election is made may not be greater than the amount, if any, by which the applicable exclusion amount determined as of the date of the decedent’s death using the Code, Section 2010(c) in effect on that date exceeds the applicable exclusion amount determined as of the date of the decedent’s death using the Code, Section 2010(c) in effect on December 31, 2000. The value of Maine qualified terminable interest property is the value finally determined by the assessor in accordance with the Code and, in the case of estates that do not incur a federal estate tax, as if the estate had incurred a federal estate tax.

**9. Maine elective property.** “Maine elective property” means all property in which the decedent at the time of death had a qualified income interest for life and with respect to which, for purposes of determining the tax imposed by this chapter on the estate of a predeceased spouse of the decedent, the federal taxable estate of such predeceased spouse was decreased pursuant to subsection 1-A, paragraph A, subparagraph (3). The value of Maine elective property is the value finally determined by the assessor in accordance with the Code as if such property were includible in the decedent’s federal gross estate pursuant to the Code, Section 2044 and, in the case of estates that do not incur a federal estate tax, as if the estate had incurred a federal estate tax.

**Sec. N-3. 36 MRSA § 4068, sub-§ 3**, as amended by PL 2003, c. 673, Pt D, § 6 and affected by § 9, is repealed and the following enacted in its place:

**3. No tax liability.** In all cases where there is no Maine estate tax liability:

A. If the personal representative makes no election pursuant to section 4062, subsection 8, the personal representative, surviving joint tenant of real estate or any other person whose real estate might be subject to a lien for taxes pursuant to this chapter may at any time file with the assessor in the form prescribed by the assessor a statement of the value of the federal gross estate; and

B. If the personal representative makes an election pursuant to section 4062, subsection 8, the personal representative shall make such election on a timely filed return. The return must be in the form prescribed by the assessor and it must be accompanied by a copy of the federal estate tax return, if any, and other supporting documentation that the assessor may require, including documentation related to an election made pursuant to section 4062, subsection 8.

**Sec. N-4. Application.** Those sections of this Act that repeal and replace the Maine Revised Statutes, Title 36, section 4062, subsection 1-A; that enact Title 36, section 4062, subsections 8 and 9; and that repeal and replace the Maine Revised Statutes, Title 36, section 4068, subsection 3 applies to estates of decedents dying on or after January 1, 2005.

## **PART O**

**Sec. O-1. 36 MRSA § 1752, subsection 12** is amended to read:

**12. Rooming house.** "Rooming house" means every house, cottage, condominium unit, vacation home, boat, vehicle, motor court, trailer court or other structure or any place or location kept, used, maintained, advertised or held out to the public to be a place where living quarters are supplied for pay to transient or permanent guests or tenants, whether in one or adjoining buildings.

**Sec. O-2. 36 MRSA §1754-B, sub-§1** as amended by PL 1997, c. 504, § 8, is further amended to read:

**1. Persons required to register.** ~~The~~ Except as otherwise provided in this section, the following persons, other than casual sellers, shall register with the assessor and collect and remit taxes in accordance with the provisions of this Part:

A. Every seller of tangible personal property or taxable services, whether or not at retail, that maintains in this State any office, manufacturing facility, distribution



facility, warehouse or storage facility, sales or sample room or other place of business;

B. Every seller of tangible personal property or taxable services that does not maintain a place of business in this State but makes retail sales in this State or solicits orders, by means of one or more salespeople within this State, for retail sales within this State;

C. Every lessor engaged in the leasing of tangible personal property located in this State that does not maintain a place of business in this State but makes retail sales to purchasers from this State;

D. Every consignee, agent or salesperson that makes retail sales in this State of tangible personal property or taxable services on behalf of a principal that is outside of this State if the principal is not the holder of a valid registration certificate;

E. Every agent, representative, salesperson, solicitor or distributor that receives compensation by reason of sales of tangible personal property or taxable services made outside this State by a principal for use, storage or other consumption in this State;

F. Every person that manages or operates in the regular course of business or on a casual basis a hotel, rooming house or tourist or trailer camp in this State or who collects or receives rents from a hotel, rooming house or tourist or trailer camp in this State; and

G. Every seller of tangible personal property or taxable services that has a substantial physical presence in this State sufficient to satisfy the requirements of the due process and commerce clauses of the United States Constitution. The following activities do not constitute a substantial physical presence for the purpose of this paragraph:

- (1) Solicitation of business in this State through catalogs, flyers, telephone or electronic media when delivery of ordered goods is effected by the United States mail or by an interstate 3rd-party common carrier;
- (2) Attending trade shows, seminars or conventions in this State;
- (3) Holding a meeting of a corporate board of directors or shareholders or holding a company retreat or recreational event in this State;
- (4) Maintaining a bank account or banking relationship in this State; or
- (5) Using a vendor in this State for printing, drop shipping or telemarketing services.

**Sec. O-3. 36 MRSA § 1764** as amended by PL 1999, c. 518, § 1, is further amended to read:

**§1764 Tax against certain casual sales**

The tax imposed by chapters 211 to 225 must be levied upon all casual rentals of living quarters and upon all casual sales involving the sale of camper trailers, truck campers, motor vehicles, special mobile equipment except farm tractors and lumber harvesting vehicles or loaders, livestock trailers, watercraft or aircraft except those sold for resale at retail sale or to a corporation, partnership, limited liability company or limited liability partnership when the seller is the owner of a majority of the common stock of the corporation or of the ownership interests in the partnership, limited liability company or limited liability partnership.

**Sec. O-4. Application.** Those sections of this Act that amend the Maine Revised Statutes, Title 36, section 1752, subsection 12; section 1754-B, subsection 1; and section 1764 apply to casual rentals of living quarters occurring on or after January 1, 2006.

## **PART P**

**Sec. P-1. 36 MRSA §111, sub-§1-A,** as amended by PL 2003, c. 705, §1 and affected by §14, is further amended to read:

**1-A. Code.** “Code” means the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, ~~2003~~ 2004.

**Sec. P-2. 36 MRSA §5122, sub-§1, ¶N,** as amended by PL 2003, c. 588, § 14, is further amended to read:

N. With respect to property placed in service during the taxable year, an amount equal to the net increase in depreciation or expensing attributable to:

(1) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2006, a 30% bonus depreciation deduction claimed by the taxpayer pursuant to Section 101 of the federal Job Creation and Worker Assistance Act of 2002, Public Law 107-147 with respect to property placed in service during the taxable year;

(2) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2006, a 50% bonus depreciation deduction claimed by the taxpayer pursuant to Section 201 of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003, Public Law 108-27 with respect to property placed in service during the taxable year; and

(3) For taxable years beginning on or after January 1, 2003 but prior to January 1, ~~2006~~ 2008, the increase in aggregate cost claimed under Section 179 of the Code pursuant to Section 202 of the federal Jobs and

Growth Tax Relief Reconciliation Act of 2003, Public Law 108-27 or pursuant to Section 201 of the American Jobs Creation Act of 2004, Public Law 108-357;

**Sec. P-3. 36 MRSA §5122, sub-§1, ¶X** is enacted as follows:

X. An amount equal to the taxpayer's federal deduction relating to income attributable to domestic production activities claimed in accordance with Section 102 of the American Jobs Creation Act of 2004, Public Law 108-357.

**Sec. P-4. 36 MRSA §5124-A**, as amended by PL 2003, c. 479, §4, is further amended to read:

The standard deduction of a resident individual is equal to the standard deduction as determined in accordance with the Code, Section 63, except that for tax years ~~beginning after 2002 in 2003, 2004 and 2005~~, the Code, Section 63(c)(2) must be applied as if the basic standard deduction is \$5,000 in the case of a joint return and a surviving spouse and \$2,500 in the case of a married individual filing a separate return.

**Sec. P-5. 36 MRSA § 5125, sub-§3, ¶A**, as amended by PL 2003, c. 390, § 34, is further amended to read:

A. Reduced by any amount attributable to income taxes or sales and use taxes imposed by this State or any other taxing jurisdiction;

**Sec. P-6. 36 MRSA §5200-A, sub-§1, ¶N**, as amended by PL 2003, c. 588, § 14, is further amended to read:

N. With respect to property placed in service during the taxable year, an amount equal to the net increase in depreciation or expensing attributable to:

(1) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2006, a 30% bonus depreciation deduction claimed by the taxpayer pursuant to Section 101 of the federal Job Creation and Worker Assistance Act of 2002, Public Law 107-147 with respect to property placed in service during the taxable year;

(2) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2006, a 50% bonus depreciation deduction claimed by the taxpayer pursuant to Section 201 of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003, Public Law 108-27 with respect to property placed in service during the taxable year; and

(3) For taxable years beginning on or after January 1, 2003 but prior to January 1, ~~2006~~ 2008, the increase in aggregate cost claimed under Section 179 of the Code pursuant to Section 202 of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003, Public Law 108-27 or pursuant to Section 201 of the American Jobs Creation Act of 2004, Public Law 108-357;

**Sec. P-7. 36 MRSA §5200-A, sub-§1, ¶S** is enacted as follows:

S. An amount equal to the taxpayer's federal deduction relating to income attributable to domestic production activities claimed in accordance with Section 102 of the American Jobs Creation Act of 2004, Public Law 108-357.

**Sec. P-8. Application.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 111, subsection 1-A applies to tax years beginning on or after January 1, 2004 and to any prior years as specifically provided by the United States Internal Revenue Code. Those sections of this Act that amend the Maine Revised Statutes, Title 36 section 5122, subsection 1, paragraph N and section 5200-A, subsection 1, paragraph N apply to tax years beginning in 2006 and 2007. Those sections of this Act that enact the Maine Revised Statutes, Title 36 section 5122, subsection 1, paragraph X and section 5200-A, subsection 1, paragraph S apply to tax years beginning on or after January 1, 2005. That section of this Act that amends the Maine Revised Statutes, Title 36 section 5125, subsection 3, paragraph A applies to tax years beginning on or after January 1, 2004.

## **PART Q**

**Sec.Q-1. 36 MRSA §1760, sub-§31, ¶A**, as amended by PL 2003, c. 20, Pt. Z, §1, is further amended to read:

A. For use by the purchaser directly and primarily in the production of tangible personal property intended to be sold or leased ultimately for final use or consumption or in the production of tangible personal property pursuant to a contract with the United States Government or any agency thereof, or, in the case of sales occurring after ~~June 30, 2005~~ June 30, 2007, in the generation of radio and television broadcast signals by broadcast stations regulated under 47 Code of Federal Regulations, Part 73. This exemption applies even if the purchaser sells the machinery or equipment and leases it back in a sale and leaseback transaction. This exemption also applies whether the purchaser agrees before or after the purchase of the machinery or equipment to enter into the sale and leaseback transaction and whether the purchaser's use of the machinery or equipment in production commences before or after the sale and leaseback transaction occurs; and,

## **PART R**

**Sec. R-1. 10 MRSA §1100-Y, sub-§2, ¶A**, as amended by PL 2003, c. 451, Pt. JJ, §1, is further amended to read:

A. For initial certification, the organization must be a private, nonprofit organization that is qualified under Section 501(c)(3) of the Internal Revenue Code, that has as one of its purposes the provision of need-based scholarships to eligible students, that meets the standards adopted by the authority by rule under subsection 7, that files reports as required by this section and that:

- (1) Is affiliated with and designated by an accredited institution of higher education in this State; or
- (2) Has filed as a nonprofit corporation with the Secretary of State on or before April 1, ~~2005~~ 2006 and continues as a nonprofit corporation in good standing with the Secretary of State.

**Sec. R-2. 10 MRSA §1100-Y, sub-§7**, as amended by PL 2003, c. 451, Pt. JJ, §2 and affected by §7, is further amended to read:

**7. Rulemaking.** The authority, after consultation with the Bureau of Revenue Services, shall establish rules for the application, eligibility and annual filing requirements necessary to implement the certification of qualified scholarship organizations pursuant to this section and may include any rules necessary to establish initial application fees and penalties, which may include monetary penalties and revocation of certification, to ensure that a qualified scholarship organization is fulfilling the requirements of this section. These rules may also include any necessary conflict-of-interest provisions pertaining to qualified scholarship organizations. The authority shall also establish any rules necessary to define postsecondary education loans that are eligible for the recruitment credits provided under Title 36, sections 2528 and 5219-V. Rules adopted pursuant to this subsection, including those setting initial application fees and penalties, are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The authority shall submit a report to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and to the joint standing committee of the Legislature having jurisdiction over taxation matters by January 30, ~~2006~~ 2007 on the rules and rule-making process to implement the tax credit program established pursuant to this subchapter.

**Sec. R-3. 36 MRSA §2527, sub-§2, ¶¶B and C**, as amended by PL 2003, c. 451, Pt. JJ, §3, are further amended to read:

B. Twenty percent of the amount contributed during the taxable year to a qualified scholarship organization for need-based scholarships for tax years beginning in ~~2006~~ 2007; or

C. Fifty percent of the amount contributed during the taxable year to a qualified scholarship organization for need-based scholarships for tax years beginning after ~~2006~~ 2007.

**Sec. R-4. 36 MRSA §2528, sub-§1, ¶B**, as amended by PL 2003, c. 451, Pt. JJ, §4, is further amended to read:

B. Beginning in ~~2006~~ 2007, 15% of the amount of loan repayments paid during the taxable year to a creditor on behalf of an employee of the taxpayer as part of a postsecondary education loan repayment agreement between the taxpayer and the employee of the taxpayer.

**Sec. R-5. 36 MRSA §5219-U, sub-§2, ¶¶B and C**, as amended by PL 2003, c. 451, Pt. JJ, §5, are further amended to read:

B. Twenty percent of the amount contributed during the taxable year to a qualified scholarship organization for need-based scholarships for tax years beginning in ~~2006~~ 2007; or

C. Fifty percent of the amount contributed during the taxable year to a qualified scholarship organization for need-based scholarships for tax years beginning after ~~2006~~ 2007.

**Sec. R-6. 36 MRSA §5219-V, sub-§1, ¶B**, as enacted by PL 2003, c. 451, Pt. JJ, §6, is amended to read:

B. Beginning in ~~2006~~ 2007, 15% of the amount of loan repayments paid during the taxable year to a creditor on behalf of an employee of the taxpayer as part of a postsecondary education loan repayment agreement between the taxpayer and the employee of the taxpayer.

## **PART S**

**Sec. S-1. 5 MRSA §17151, sub-§2**, as amended by PL 2003, c. 20, Pt. NN, §1, is further amended to read:

**2. Intent.** It is the intent of the Legislature that there must be appropriated and transferred annually to the retirement system the funds necessary to meet the system's long-term and short-term financial obligations based on the actuarial assumptions established by the board upon the advice of the actuary. The amount of the unfunded liability attributable to state employees and teachers as of July 1, ~~2002~~ 2004, as certified by the board or as that amount may be revised in accordance with the terms of the certification, must be retired in no more than ~~25~~ 23 years from June 30, ~~2003~~ 2005. For fiscal year ~~2002-03~~ 2004-05, the Legislature must appropriate or allocate and there must be transferred to the retirement system funds necessary to institute, as of July 1, ~~2003~~ 2005, the ~~25~~ 23-year amortization schedule. For each fiscal year starting with the fiscal year that begins July 1, ~~2003~~ 2005, the Legislature shall appropriate or allocate and transfer to the retirement system the funds necessary to meet the ~~25~~ 23-year requirement set forth in this subsection, unless the Legislature establishes a different amortization period. Funds that have been appropriated must be considered assets of the retirement system.

- A. The goal of the actuarial assumptions is to achieve a fully funded retirement system.
- B. The retirement system's unfunded liability for persons formerly subject to the Maine Revised Statutes of 1944, chapter 37, sections 212 to 220 must be repaid to the system from annual appropriations over the funding period of the retirement system.
- C. This section may not be construed to require the State to appropriate and transfer funds to meet the obligations of participating local districts to the retirement system.

**Sec. S-2. 5 MRSA §17151, sub-§3 as enacted by PL 2003, c. 20 §NN-2 is repealed.**

## **PART T**

**Sec. T-1. 5 MRSA §1667 is amended to read:**

**1. Allotment in excess of legislatively authorized allocations.** Allotments in Other Special Revenue Fund accounts and internal service fund accounts may exceed current year allocations and the unused balance of allocations authorized to carry forward by law under the following conditions provided that Other Special Revenue Fund accounts and internal service fund accounts are expended in accordance with the statutes that establish them and for no other purpose:

1. Sufficient cash is available from the Other Special Revenue Fund accounts, the internal service fund account or the unencumbered balance authorized to carry forward by law;

2. Allotment of these available funds is recommended by the State Budget Officer and approved by the Governor by financial order as an allotment increase in the annual work program;

3. Allotment of these available funds is subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs; and

4. Allotment of these funds does not take effect until 30 days after the approval by the Governor; and

5. Either one of the following:

A. Allotment is required to provide for the costs of approved collective bargaining agreements; or

B. Failure to allot these available funds could have a significant detrimental impact on current programs.

In case of extraordinary emergency situations, the 30-day wait beyond approval by the Governor may be waived by vote of the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.

**Sec. T-2. 5 MRSA §1582 is amended to read:**

No appropriations to any state department or agency shall become available for expenditure until allotted upon the basis of the work program duly approved by the Governor as provided.

**1. New or expanded programs.** A state department may not establish new programs or expand existing programs beyond the scope of those programs already established, recognized and approved by the Legislature until the program and the method of financing are submitted to the Department of Administrative and Financial Services, Bureau of the Budget for evaluation and recommendation to the Legislature and until the funds are made available therefore by the Legislature.

**2. Significant action recommended by State Budget Officer.** The Department of Administrative and Financial Services, Bureau of the Budget shall inform the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, through the Office of Fiscal and Program Review, of significant action recommended by the bureau in the performance of assigned budget responsibilities.



**Sec. T-3. 5 MRSA §1583-A is amended to read:**

**1. Prohibition**

Notwithstanding any other provision of law, limited period, project or any other temporary positions may be established by financial order so long as the end date for such positions does not exceed the statutory adjournment date for the next regular session of the Legislature. Temporary positions established by financial order may not be continued past the statutory adjournment date unless the Legislature specifically appropriates or allocates funds to continue those positions.

**2. Workers' compensation positions.** Limited-period positions may be established for former regular employees of the State who are presently receiving workers' compensation payments for the State when that action will enable those employees to return to productive employment with the State. These positions may be established, providing funds are available, only until those employees can be returned to regular positions. Notwithstanding any other restrictions on funds appropriated or allocated, the State Budget Officer may, after determining that funds are available, either approve the use of these funds or recommend appropriate action to the Governor when the Governor's approval is required. Available funds may include amounts appropriated or allocated for Personal Services, including funds in any salary account or special account for state employee salary increases, All Other, Capital Expenditures and unallocated.

**3. Number of necessary employees.** The Governor and the State Budget Officer when next preparing the budget proposals for the Legislature may at their discretion make the necessary adjustments to reflect the number of positions that, in their opinion, are necessary to the proper operation of each department, institution or agency.

**4. Federally funded programs.** If federal funds are not available as anticipated for programs, there is no obligation to provide state funds in excess of those appropriated or allocated by the Legislature. Positions entirely or partially funded by federal or nonstate sources of funds are considered limited-period positions.

**Sec. T-4. 5 MRSA §1583-B is enacted to read:**

**5 MRSA §1583-B Personal Services Policy**

**1. Personal Services policy and review.** The Department of Administrative and Financial Services, Bureau of the Budget shall continually review with all state departments the status of their staffing levels and patterns for the purpose of determining whether funds and positions are being utilized and managed in the most economical and efficient manner to accomplish the intent of the Legislature. Permanent positions for which funds are appropriated or allocated must be classified positions unless specifically designated otherwise by the Legislature. It is

the responsibility of the Director of the Bureau of Human Resources within the Department of Administrative and Financial Services to ensure that classified and unclassified positions are assigned to the proper pay grade and of the State Budget Officer to ensure that the positions are within authorized headcount and funds.

**2. Personal Services flexibility.** Any classification or reclassification of a position and any allocation or reallocation of a position within the compensation plan made by the Director of the Bureau of Human Resources within the Department of Administrative and Financial Services pursuant to the Civil Service Law and applicable rules becomes effective on the first day of the fiscal year following approval by the State Budget Officer and the appropriation or allocation of funds therefore, except that the State Budget Officer may, if the officer determines that sufficient funds exist, authorize an effective date prior to the first day of the ensuing fiscal year.

**Sec. T-5. 5 MRSA §1811 is amended to read:**

**10. Equipment to be reviewed.** The Commissioner of Administrative and Financial Services may choose a designee to conduct a thorough review of all types of equipment, including automobiles, pickups and vans, owned, leased or otherwise available to the departments and agencies of the State, regardless of the source of supporting funds, and make recommendations via the budgetary process for combining their use, providing centralized facilities or eliminating existing equipment and facilities, as believed to be most economical and efficient for the State. The Commissioner of Administrative and Financial Services may also develop and institute review and control mechanisms considered necessary to ensure that capital equipment purchases authorized by the Legislature are consistent with the intent for which funds were recommended and made available.

**11. Motor vehicle replacement policy.** The Director of the Bureau of General Services within the Department of Administrative and Financial Services shall require that requisitions for replacement motor vehicles include the age and total mileage of the motor vehicles being replaced. For the purposes of this section, "motor vehicles" means passenger cars and panel and pickup trucks, excluding those vehicles authorized and assigned for pursuit purposes. Under no circumstances are any state vehicles to be used for commuting purposes. It is the intent of the Legislature that motor vehicles be in service for at least 5 years or 75,000 miles before they are replaced. This policy must also be adopted by the State Budget Officer when next preparing a budget document. Exceptions to this replacement policy require the prior approval of the Commissioner of Administrative and Financial Services. The Commissioner of Administrative and Financial Services may also set appropriate standards with regard to motor vehicle type, size and equipment and direct that all motor vehicles be purchased in accordance with a commodity calendar established by the Director of the Bureau of General Services.

**Sec. T-6. 5 MRSA §1877-A is amended to read:**

**4. State Cost Allocation Program.** The State Cost Allocation Program shall annually identify the kind and cost of central services furnished to each state agency from General Fund appropriations. The non-General Fund portion of each agency must be assessed for these services as determined by the State Cost Allocation Program procedures to the extent that payments are not expressly prohibited by state or federal law or by the terms of a gift or donation made to the State from private sources. These payments must be credited to the General Fund as undedicated revenue. The State Cost Allocation Program may provide for the separate assessment of certain statewide single audit costs to federally funded programs. The Commissioner of Administrative and Financial Services, or the commissioner's designee, may adjust this assessment to any individual account.

Non-General Fund resources that contribute to funding costs related to general departmentwide functions, such as accounting, personnel administration, maintenance of property records and general purchasing, that have been made available to an account by legislative action may be consolidated into one or more administrative accounts, unless such a consolidation is expressly prohibited by state or federal law. All resources and costs affected by such consolidation must be properly identified and included in the budget process in accordance with the Maine Revised Statutes, Title 5, chapter 149. When the Legislature is not in session and upon recommendation of the State Budget Officer, the Governor may approve necessary adjustments to these consolidations for a period not to exceed the end of the current fiscal year. The Director of the Office of Fiscal and Program Review must be notified of any such action. The unencumbered balance of each administrative account established pursuant to this section must be carried forward at the end of each fiscal year, and the budgeted transfers to the administrative account for the ensuing fiscal year must be proportionally reduced by the amount of that carried balance.

**Sec. T-7. 5 MRSA §1589 is amended to read:**

The State Controller may close the books as soon as practicable after the close of the fiscal year. Any bills or invoices presented after those dates may be paid from appropriations or allocations for the ensuing year on recommendation of the State Controller if within the amounts of approved allotments. At the end of each fiscal year, unencumbered appropriation and allocation balances lapse into the appropriate fund and are not available unless authorized by law. Encumbered balances may not be carried forward more than once at the end of a fiscal year.

**PART U**

**Sec. U-1. 12 MRSA, §9321, sub-§1, para. K is enacted to read:**

K . The Director may charge a fee for each burning permit issued. Permit fees shall be deposited to the General Fund. At the discretion of the director, the fee may be waived for cause.

**Sec. U-2. Additional revenue.** Enhanced timber management activities employed by the Bureau of Parks and Lands within the Department of Conservation will increase General Fund undedicated revenue by \$200,000 in fiscal year 2005-06 and \$300,000 in fiscal year 2006-07.

**PART V**

**Sec. V-1 . Department of Corrections; overtime.** Notwithstanding the Maine Revised Statutes, Title 5, section 1585, or any other provision of law, the Department of Corrections is authorized to transfer, by financial order, Personal Services, All Other or Capital Expenditures funding between accounts within the same fund for the purposes of paying overtime expenses in accordance with Title 5, section 7065.

**Sec. V-2. Additional revenue.** The Long Creek Youth Development Center within the Department of Corrections will increase General Fund undedicated revenue by \$949,000 in fiscal year 2005-06 and \$949,000 in fiscal year 2006-07 through boarding juveniles from other governmental entities.

**Sec. V-3 . Additional revenue.** By working with the Judicial Department to assess fees on more probationers, improving the department's collections of supervision fees using technology, and by charging supervision fees on out-of-state probationers, the Adult Community Corrections program within the Department of Corrections will increase General Fund undedicated revenue by \$290,000 in fiscal year 2005-06 and \$290,000 in fiscal year 2006-07.

**PART W**

**Sec. W-1. 12 MRSA Section 10751, subsection 8** is amended as follows:

**8. Transaction fees.** The commissioner may charge a transaction fee of up to ~~\$10~~ \$13 to cover administrative costs for the issuance of a license or permit that does not have a fee provided by law. When a transfer of a license or permit or exchange of a hunting zone or area is authorized under this Part, the commissioner may assess a ~~\$5~~ \$8 transaction fee for that transfer or exchange.

**Sec. W-2. 12 MRSA §11109, sub-§§ 3, 4, 5, 6, and 7** are amended to read as follows.

3. Hunting licenses; combination licenses; fees. Hunting licenses, combination licenses and fees are as follows.

A. A resident junior hunting license, for a person 10 years of age or older and under 16 years of age, is ~~\$5~~ \$8.

B. A resident hunting license, for a person 16 years of age or older, is ~~\$19~~ \$22.

C. A resident small game hunting license, for a person 16 years of age or older, which permits hunting for all legal species except deer, bear, turkey, moose, raccoon and bobcat, is ~~\$12~~ \$15.

D. A resident combination hunting and fishing license is ~~\$36~~ \$39.

E. A resident combination archery hunting and fishing license is ~~\$36~~ \$39.

F. A nonresident junior hunting license, for a person 10 years of age or older and under 16 years of age, is ~~\$25~~ \$28.

G. A nonresident small game hunting license, which permits hunting of all legal species except deer, bear, turkey, moose, raccoon and bobcat, is ~~\$55~~ \$58.

H. A nonresident 3-day small game hunting license, valid for 3 consecutive hunting days, which permits hunting of all legal species except deer, bear, turkey, moose, raccoon and bobcat for the 72-hour period specified on the license, is ~~\$30~~ \$33.

I. A nonresident big game hunting license, which permits hunting of all species including deer and bear, is ~~\$85~~ \$88.

J. A nonresident combination hunting and fishing license is ~~\$123~~ \$126.

K. An alien small game hunting license, which permits hunting of all species except deer, bear, turkey, moose, raccoon and bobcat, is ~~\$70~~ \$73.

L. An alien big game hunting license, which permits hunting of all species including deer and bear, is ~~\$125~~ \$128.

M. An alien combination hunting and fishing license is ~~\$176~~ \$179.

N. A license to use leashed dogs to track wounded deer, which permits a person to use one or more leashed dogs to track a lawfully wounded deer, is ~~\$25~~ \$28.

4. Muzzle-loading license; issuance and agent's fee. The commissioner, through the commissioner's agent, shall issue muzzle-loading licenses to eligible persons. The issuing agent shall charge a fee of \$1 for each license issued.

5. Muzzle-loading licenses and fees. Muzzle-loading hunting licenses and fees are as follows:

A. A resident muzzle-loading hunting license is ~~\$14~~ \$14;

B. A nonresident muzzle-loading hunting license is ~~\$33~~\$36; and

C. An alien muzzle-loading hunting license is ~~\$58~~\$61.

6. Issuance of archery hunting license; agent's fee. Clerks or other agents appointed by the commissioner to issue archery hunting licenses must charge a fee of \$1 for each archery hunting license issued. The commissioner shall charge a fee of \$1 for each archery hunting license issued by department employees.

7. Archery hunting licenses; combination licenses; fees. Archery hunting licenses, combination licenses and fees are as follows:

A. A resident archery license is ~~\$19~~\$22;

B. A resident combination archery hunting and fishing license is ~~\$36~~\$39;

C. A nonresident archery license is ~~\$55~~\$58; and

D. An alien archery license is ~~\$70~~\$73.

**Sec.W-3. 12 MRSA §11151, subsection 3** is amended as follows:

3. Issuance; permit fee. The commissioner, through the commissioner's authorized agent, shall issue a bear hunting permit to an eligible person. The annual fee for each permit issued is ~~\$25~~\$28 for residents and ~~\$65~~\$68 for nonresidents

**Sec. W-4. 12 MRSA §11153, subsection 1** is amended to read as follows:

1. Special season deer hunting permits; authority to issue for special season. The commissioner may implement a permit system to regulate hunter participation in a special season established by the commissioner pursuant to section 11402, subsection 4, paragraph B and the number, sex and age of deer harvested. If permits are issued, the fee for a deer permit other than an antlerless deer permit is ~~\$30~~\$33 and the fee for an antlerless deer permit is ~~\$10~~\$13.

**Sec. W-5. 12 MRSA §11154, subsection 3** is amended to read as follows:

**3. Moose hunting permit fee.** The fee for a moose hunting permit is ~~\$50~~\$53 for a resident and ~~\$475~~\$478 for a nonresident or alien.

**6. Application procedure.** An eligible person wishing to apply for a permit must file a written application for a permit on a form furnished by the commissioner. The application fee is nonrefundable. A person may file no more than one application. A person who submits more than one application is disqualified from the selection of permittees. The application must be accompanied by an application fee of:

A. For a resident;

- (1) ~~Five-Eight~~ dollars for a one-chance application;
- (2) ~~Ten Thirteen~~ dollars for a 3-chance application. A resident must possess a valid big game hunting license to be eligible to purchase a 3-chance application; and
- (3) ~~Twenty~~ ~~Twenty-three~~ dollars for a 6-chance application. A resident must possess a valid big game hunting license to be eligible to purchase a 6-chance application; or

B. For a nonresident;

- (1) ~~Ten Thirteen~~ dollars for a one-chance application;
- (2) ~~Twenty~~ ~~Twenty-three~~ dollars for a 3-chance application.
- (3) ~~Thirty~~ ~~Thirty-three~~ dollars for a 6-chance application.
- (4) ~~Fifty~~ ~~Fifty-three~~ dollars for a 10-chance application; multiple 10-chance options may be purchased. ~~After June 30, 2005, a~~ A nonresident may ~~not~~ file more than one 10-chance application per year.

**Sec. W-6. 12 MRSA §11155, subsections 2, 3, 4, 5, 6, 7 and 8 are repealed.**

**Sec. W-7. 12 MRSA §11155, subsections 1-A and 1-B are enacted as follows:**

**1-A. Eligibility; big game license required.** A person who possesses a valid license to hunt big game may obtain a permit to hunt for wild turkey from the commissioner or an authorized agent.

**1-B. Issuance; permit fee.** The commissioner, through the commissioner's authorized agent, shall issue a wild turkey hunting permit to an eligible person. The annual fee for a wild turkey hunting permit is \$18 for residents and \$45 for nonresidents and aliens.

**Sec. W-8. 12 MRSA §11156, subsection 4 is amended to read as follows:**

**4. Fee.** The fee for a pheasant hunting permit is ~~\$16~~\$19, \$1 of which is retained by the commissioner's authorized agent.

**Sec. W-9. 12 MRSA §11157, subsection 3 is amended to read as follows:**

**3. Fee.** The fee for a migratory waterfowl hunting permit is ~~\$5.50~~ \$8.50, 25¢ of which must be retained by the agent.

**Sec. W-10. 12 MRSA §11159, subsection 3** is amended to read as follows:

**3. Issuance and fee.** The commissioner shall issue permits to eligible persons to engage in the practice of falconry at a fee of ~~\$24~~ \$27.

**Sec. W-11. 12 MRSA §11160, subsection 3** is amended to read as follows:

**3. Issuance.** The commissioner shall issue a permit to hunt coyotes at night to eligible persons at a fee of ~~\$2~~ \$5.

**Sec. W-12. 12 MRSA §12201, subsection 6** is amended to read as follows:

**6. Trapping fees.** The fees for trapping licenses are as follows:

A. A resident junior trapping license, for a person 10 years of age or older and under 16 years of age, is ~~\$7~~ \$10;

B. A resident trapping license, for a person 16 years of age or older, is ~~\$33~~ \$36; and

C. A nonresident trapping license is ~~\$308~~ \$311.

**Sec. W-13. 12 MRSA §12501, subsection 6** is amended to read as follows:

**6. Schedule of fees.** The fees for fishing licenses are as follows:

A. A resident fishing license is ~~\$19~~ \$22.

B. A resident combination hunting and fishing license is ~~\$36~~ \$39.

C. A resident combination archery hunting and fishing license is ~~\$36~~ \$39.

D. A nonresident junior fishing license, for persons 12 years of age or older and under 16 years of age, is ~~\$7~~ \$10.

E. A 3-day fishing license for a resident or nonresident, valid for the 72-hour period specified on the license, is ~~\$21~~ \$24.

F. A nonresident 7-day fishing license, valid for 7 days from date indicated on license, is ~~\$34~~ \$37.

G. A nonresident 15-day fishing license, valid for 15 days from date indicated on license, is ~~\$38~~ \$41.

H. A nonresident season fishing license for persons 16 years of age or older is ~~\$50~~ \$53.

I. An alien season fishing license for persons 16 years of age or older is ~~\$70~~ \$73.



- J. A one-day fishing license for a resident or nonresident, valid for the 24-hour period indicated on license, is ~~\$9~~\$12.

**Sec. W-14. 12 MRSA §12505, subsection 4** is amended as follows:

3. **Fee.** The fee for a bass tournament permit is:
- A. For weigh-in tournaments, ~~\$50~~\$53 per day; and
  - B. For catch-and-release tournaments, ~~\$10~~\$13 per day.

**Sec. W-15. 12 MRSA §12506, subsection 3** is amended as follows:

3. **Fee; transfer of permit.** The minimum fee for an individual permit for alewives, suckers, lampreys and yellow perch is ~~\$42~~\$45. A crew permit may be sold for alewives, suckers, lampreys and yellow perch for ~~\$100~~\$103, authorizing up to 3 persons to engage in the permitted activity. The annual fee for an eel pot or weir permit is ~~\$100~~\$103. An eel pot or eel weir permit is not transferable.

**Sec. W-16. 12 MRSA §12551-A, subsection 4** is amended as follows:

4. **Schedule of fees.** The fees for licenses under this section are:
- A. For a live bait retailer's license, ~~\$14~~ \$17.
  - B. For a baitfish wholesaler's license, ~~\$24~~ \$27.
  - C. For a smelt wholesaler's license, ~~\$69~~ \$72.

**Sec. W-17. 12 MRSA §12853, subsection 5** is amended as follows:

5. **Fee.** The fee for a 3-year guide license is ~~\$79~~ \$82.

**Sec. W-18. 12 MRSA §12909, subsection 4** is amended as follows:

4. **Fee.** The fee for an examination is \$100 and is nonrefundable. An applicant may retake the examination once without paying an additional examination fee. A whitewater guides license is a 3-year license. The fee for a whitewater guide's license is ~~\$87~~ \$90.

**Sec. W-19. 12 MRSA Section 13056, subsection 8** is amended as follows:

8. **Fees.** The fees for each original or renewal certificate of number with 2 validation stickers ~~are~~ is \$23. A registration is valid for one year commencing

January 1<sup>st</sup> of each year, except that any registration issued prior to January 1<sup>st</sup> but after November 1<sup>st</sup> is valid from the date of issuance until December 31 of the following year.

~~A. For watercraft requiring or whose owner requests a certification of number and that is equipped with a motor having a manufacturer's horsepower rating of:~~

- ~~(1) Ten horsepower or less, the fee is \$6;~~
- ~~(2) Greater than 10, but not more than 50 horsepower, the fee is \$10; and~~
- ~~(3) Greater than 50 horsepower, the fee is \$15.~~

B. For a personal watercraft requiring or whose owner requests a certificate of number, the fee is ~~\$20~~ \$23.

PARAGRAPHS C and D remain unchanged.

E For a certificate of number issued with transfer of ownership authorized in subsection 10, the fee is ~~\$2~~ \$5.

~~F. For a registration issued for an expanded registration period authorized in subsection 11, paragraph A:~~

- ~~(1) Ten horsepower or less, the fee is \$7.50;~~
- ~~(2) Greater than 10, but not more than 50 horsepower, the fee is \$12.50; and~~
- ~~(3) Greater than 50 horsepower, the fee is \$18.75; and~~
- ~~(4) Personal watercraft, the fee is \$25.00.~~

Validation stickers are nontransferable.

**Sec. W-20. 12 MRSA Section 13056, subsection 10** is amended as follows:

**10. Transfer of ownership.** Whoever transfers ownership of a motorboat for which a certificate of number has already been issued under this chapter and applies for a certificate of number for another motorboat is entitled to a new certificate of number upon payment of a transfer fee of ~~\$2~~ \$5 as set forth in subsection 8, paragraph E, provided the applicant returns to the commissioner the old certificate of number properly signed and executed, showing that ownership of the motorboat has been transferred.

**Sec W-21. 12 MRSA Section 13056, subsection 11, paragraph A** is repealed.

**Sec. W-22. 12 MRSA Section 13059, subsection 3** is amended as follows:

3. **Fee.** The fee for a dealer's certificate of number is ~~\$45~~ \$18 annually from each January 1st.

**Sec. W-23. 12 MRSA Section 13065, subsection 3** is amended as follows:

3. **Fee.** The fee for a personal watercraft rental and leasing agent certificate is ~~\$25~~ \$28.

**Sec. W-24. 12 MRSA Section 13104, subsection 4, paragraphs A and B** are amended as follows:

4. **Fee.** Except as provided in subsection 5, the annual snowmobile registration fee is as follows:

A. For residents, ~~\$30~~ \$33. The registration for a snowmobile owned by a resident is valid for one year, commencing on July 1<sup>st</sup> of each year.

~~(1) Whoever obtains an original resident snowmobile registration after March 31<sup>st</sup> may pay \$37.50 and receive a registration covering the remainder of the registration period plus one additional year; and~~

B. For nonresidents:

(1) ~~Forty~~ Forty-three dollars for a 3-consecutive day registration. A person may purchase more than one 3-day registration in any season;

~~(2) Fifty-five~~ Fifty-eight dollars for a 10-consecutive-day registration. A person may purchase more than one 10-day registration in any season; and

(3) ~~Sixty-five~~ Sixty-eight dollars for a seasonal registration.

5. **Antique snowmobile registration fee.** A resident who owns a snowmobile that is more than 25 years old and that is substantially maintained in original or restored condition may register that snowmobile under this subsection as an antique snowmobile. An antique snowmobile registration authorizes that snowmobile to be operated only for the purpose of traveling to, returning from, and participating in an exhibition, parade or other event or interest to the public or for occasional personal use. The fee for an antique snowmobile registration is ~~\$30~~ \$33. An antique snowmobile registration is valid until the ownership of that antique snowmobile is transferred to another person. Upon the transfer of ownership, the new may reregister that snowmobile as an antique snowmobile by paying the ~~\$30~~ \$33 antique snowmobile registration fee. The registration fee for an antique snowmobile is allocated according to section 10206, subsection 2, paragraph A.

**Sec. W-25. 12 MRSA Section 13104, subsection 10** is amended as follows:

- 9. Transfer of ownership, discontinuance of use.** The following provisions govern transfer of ownership and discontinued use.

A. A person who transfers the ownership or permanently discontinues the use of a snowmobile having a resident registration or a nonresident seasonal registration and applies for registration of another snowmobile in the same registration year is entitled to a registration upon payment of a transfer fee of ~~\$2~~ \$5 and is not required to pay the regular registration fee.

**Sec. W-26. 12 MRSA Section 13155, subsections 5 and 7** are amended as follows:

**5. Fee.** The annual registration fee for an ATV is ~~\$17~~ \$33 for a resident and ~~\$35~~ \$68 for a nonresident.

**Sec. W-27. 12 MRSA, §13155, sub-§7, paragraph B** is amended as follows:

B. An all-terrain vehicle owner who transfers the ownership or discontinues its use may, within 10 days from the transfer or discontinuance, apply to the commissioner for registration of another all-terrain vehicle. The fee for transfer is ~~\$2~~ \$5 and the registration is valid for the remainder of the registration year for which the previous all-terrain vehicle had been registered.

**Sec. W-28. 12 MRSA Section 12953, subsections 6 and 7** are amended as follows:

**6. Fee.** License applicants who successfully meet the qualifications set forth in this section must be issued a license upon payment of a ~~\$65~~ \$68 fee. This fee is in addition to the ~~\$10~~ \$13 examination fee.

**7. Annual renewal of license; fees.** Licenses issued pursuant to this section run for the current year until the 30<sup>th</sup> day of June following the date of the issuance, on which date the license terminates unless it is revoked sooner. Subject to any revocation or suspension, the license or permit may be renewed annually upon application by the licensee accompanied by a ~~\$75~~ \$78 license fee.

**Sec. W-29. 12 MRSA Section 12954, subsection 4** is amended as follows:

**4. Fee.** The annual fee for hide dealer licenses are:

- A. For a resident hide dealer, ~~\$58~~ \$61; and  
B. For a nonresident hide dealer, ~~\$108~~ \$111.

**Sec. W-30. 12 MRSA Section 12955, subsection 4** is amended as follows:

4. **Fee.** The annual fee for a special hide dealer's license is ~~\$40~~ \$13.

**Sec. W-31. 12 MRSA Section 11205, sub-§1, paragraph A** is amended as follows:

**1. Prohibition.** A person may not:

- A. ~~Hunt wild animals or wild birds on Sunday~~ Hunt wild animals or birds on any Sunday that falls within the open firearms season on deer, except that a person may hunt migratory waterfowl on any Sunday within the open season on migratory waterfowl.

**Sec. W-32. 12 MRSA Section 11401, sub-§1, paragraph B** is repealed.

## **PART X**

**Sec. X-1. 20-A MRSA §13451, sub-§3, ¶¶B and C**, as amended by PL 2003, c. 451, Pt. OO, §1, are further amended to read:

- B. Thirty-five percent from July 1, 2002 to July 31, 2003;  
C. Forty percent ~~after~~ from July 31, 2003 to June 30, 2005; and  
D. Forty-five percent after July 1, 2005.

**Sec. X-2. Title 20-A, §13451, sub-§3-B**, is enacted to read:

**3 -B Plan Experience.** If at the end of a contract year the plan experiences a rebate, investment gain, or other positive gains resulting from plan experience, the state will share at the funding level percentage of premium participation

## **PART Y**

**Sec. Y-1 Cost reduction savings.** The Commissioner of the Department of Environmental Protection shall review the current organizational structure and functions of the department to determine cost reductions and shall calculate the amount of savings in Part B, section 1 that applies against each General Fund and Other Special Revenue Fund account within the department. Notwithstanding any other provision of law the State Budget Officer shall transfer the amounts by financial order upon the approval of

the Governor. These transfers are considered adjustments to appropriations and allocations in fiscal years 2005-06 and 2006-07. The State Controller shall transfer the savings identified in the Other Special Revenue Fund accounts to the General Fund as unappropriated surplus. The State Budget Officer shall provide the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and over natural resources a report of the transferred amounts no later than January 15, 2007.

## **PART Z**

**Sec. Z-1. 12 MRSA §7017, sub-§9**, as amended by PL 2003, c. 20, Pt. L, §2, is amended to read:

- 9. Fiscal Stability Program.** The Fiscal Stability Program is established to ensure that the general public and hunters and anglers share the cost of the fish and wildlife conservation programs of the Department of Inland Fisheries and Wildlife. To achieve this goal, beginning with the ~~2006-2007~~ 2008-2009 biennial budget and for each biennial budget thereafter, the biennial budget submitted by the executive branch must include a General Fund appropriation of 18% of the department's requested biennial budget. General Fund appropriations to the Fiscal Stability Program may not be considered to be amounts appropriated to the department under the Constitution of Maine, Article IX, Section 22.

## **PART AA**

**Sec. AA-1. Overdue Fines.** The Judicial Department expects to collect additional General Fund undedicated revenue of \$1,100,000 in fiscal year 2005-06 and \$1,900,000 in fiscal year 2006-07 from an accelerated collection effort.

**Sec. AA-2. Additional revenue.** The Judicial Department has reprojected it's revenue from all Judicial related fines and expects to collect additional General Fund undedicated revenue of \$1,500,000 in fiscal year 2005-06 and \$1,500,000 in fiscal year 2006-07.

## **PART BB**

**Sec. BB-1. Transfer of funds.** Notwithstanding any other provision of law, the State Budget Officer in conjunction with the Commissioner of the Department of Labor

shall identify savings, within the Department of Labor's General Fund accounts, related to improvements in organizational efficiency and cost effectiveness. The State Budget Officer shall transfer the amounts by Financial Order upon the approval of the Governor. These transfers are considered adjustments to appropriations in fiscal year 2005-06 and fiscal year 2006-07. The identified savings must be administrative cost reductions or savings that result from efficiencies in the delivery of services. The State Budget Officer shall provide to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a report of the transferred amounts no later than January 15, 2007.

## **PART CC**

**Sec. CC-1. Admission fees.** Effective July 1, 2005, the Maine State Museum will re-open on Sundays and Mondays and will continue to charge general admission fees. Income from admission fees of \$41,000 in fiscal year 2005-06 and \$43,000 in fiscal year 2006-07 and will be deposited to the General Fund as undedicated revenue.

## **PART DD**

**Sec. DD-1 Speed enforcement.** Notwithstanding any other provision of law, the Commissioner of the Department of Public Safety is authorized to increase the number of speed details using aircraft by 60 per year resulting in an increase in undedicated revenue to the General Fund of \$300,000 in fiscal year 2005-06 and fiscal year 2006-07.

**Sec, DD-2. Transfer of funds; State Fire Marshal's Office.** Notwithstanding any other provision of law, the State Controller shall transfer \$517,963 from the State Fire Marshal's Office Other Special Revenue Fund account in the Department of Public Safety to the unappropriated surplus of the General Fund by June 30, 2007.

## **PART EE**

**Sec. EE-1. 17-A, §207, sub-§ 2-A** is enacted to read:

**2-A. Enforcement.** The fine for a violation of subsection 1 may not be less than \$300 nor more than \$500.

**Sec. EE-2. 29-A MRSA §2081, sub-§4 as amended by PL 2003, c. 380, §4 and affected by §5** is further amended to read:

**4. Enforcement.** The following provisions apply to subsections 2, 3 and 3-A.

A. Unless the vehicle is operated by a person under 21 years of age, the requirements do not apply to a passenger over one year of age when the number of passengers exceeds the vehicle seating capacity and all of the seat belts are in use.

A-1. The requirements of subsection 3-A do not apply to a driver or passenger who has a medical condition that, in the opinion of a physician, warrants an exemption from the requirements of subsection 3-A and that medical condition and opinion are documented by a certificate from that physician. That certificate is valid for 5 years.

~~B. A person against whom enforcement action has been taken may not be adjudicated to have committed a subsequent violation of subsection 2 or subsection 3, paragraph A until 24 hours have elapsed from the date and time of the first violation indicated on the Violation Summons and Complaint.~~

~~C. A violation of subsection 2 or subsection 3, paragraph A is a traffic infraction. The court shall waive the fine for a first violation of subsection 2 or subsection 3, paragraph A by a parent or legal guardian if the parent or legal guardian provides the court with satisfactory evidence that the parent or legal guardian has acquired a child safety seat or federally approved child restraint system for continuous use by the child within 30 days of the violation.~~

~~D. A violation of subsection 3 or 3-A is a traffic infraction. The fine for a violation of subsection 3 or 3-A may not be less than \$25 nor more than \$50. A written warning must be issued in lieu of a fine for a violation of subsection 3 until September 1, 2003. After September 1, 2003 a fine may be imposed for a violation of subsection 3.~~

~~E. Subsection 3-A may be enforced only if a law enforcement officer has detained the operator of a motor vehicle for a suspected violation of another law.~~

A-2. A violation of subsection 2, 3 or 3-A is a traffic infraction. The fines for a violation of subsection 2, 3 or 3-A may not be less than \$225, \$200 or \$175, respectively, nor more than \$500.

**Sec. EE-3. 29 – A, §2413. Driving to endanger**, is amended to read:

**1. Definition.** A person commits a Class E crime if, with criminal negligence as defined in Title 17-A, that person drives a motor vehicle in any place in a manner that endangers the property of another or a person, including the operator or passenger in the motor vehicle being driven.

**2. Allegation of facts.** In pleading under this section, it is not necessary to allege specifically the facts that constitute criminal negligence.

**3. Penalties.** In addition to any other penalty, the court shall suspend the driver's license for not less than 30 days nor more than 180 days, which minimum may not be suspended. If the court fails to suspend the license, the Secretary of State shall impose the minimum period of suspension.



**4. Enforcement.** A violation of this section is a traffic infraction. The fine for a violation of this section may not be less than \$575 nor more than \$750.

**5. Exception.** This section does not apply to the operation of a vehicle: [1993, c. 683, Pt. A, §2 (new); Pt. B, §5 (aff).]

A. In racing events and exhibitions at which the public does not have access to the operating area; or

B. On private land to which the public does not have access when used by or with authorization of the landowner.

**6. Notice.** The court shall give notice of the suspension and take physical custody of a driver's license as provided in section 2434.

**Sec. EE-4. Transfer of funds.** Notwithstanding any other provision of law, the State Controller shall transfer \$40,033 in fiscal year 2005-06 and \$68,355 in fiscal year 2006-07 in savings from the Bureau of Elections and Commissions, Administrative Services and Corporations, Other Special Revenue Funds account in the Department of the Secretary of State to the unappropriated surplus of the General Fund no later than June 30, 2006 and June 30, 2007.

## PART FF

**Sec. FF-1. 33 MRSA, §1953. Presumptions of abandonment** is amended to read as follows:

**1. Presumptive abandonment periods.** Property is presumed abandoned if it is unclaimed by the apparent owner during the times, as follows for the particular property:

G. A gift obligation or stored-value card, 32 years after December 31st of the year in which the ~~gift obligation transaction~~ occurred. A period of limitation may not be imposed on the owner's right to redeem the gift obligation or stored-value card. The amount unclaimed is the face value of the gift obligation or stored-value card, except that the amount unclaimed is 60% of the gift obligation's or stored-value card's face value if the issuer ~~of the gift obligation~~ does not impose a dormancy charge. Fees or charges may not be imposed on gift obligations or stored-value cards unless they are noted on the gift obligation or stored-value card and are in accordance with section 1956. The amount of these charges or fees may not be unconscionable;

**Sec. FF-2, 33 MRSA, §1958. Report of property presumed abandoned** is amended to read as follows:

**4. Filing period.** The report must be filed each year: before November 1st of each year and cover the 12 months next preceding July 1st of that year, but a report with respect to a life insurance company must be filed before May 1st of each year for the

~~calendar year next preceding.~~

- A. Before May 1<sup>st</sup> for property reportable as of the end of the preceding calendar year, which includes life insurance, gift obligations, and stored-value cards;
- B. Before November 1<sup>st</sup> for property reportable as of the end of the preceding state fiscal year ending June 30<sup>th</sup>, which includes all property not included in paragraph A.

## **PART GG**

**Sec. GG-1. Voluntary employee incentive programs.** Notwithstanding the Maine Revised Statutes, Title 5, section 903, subsections 1 and 2, the Commissioner of Administrative and Financial Services shall offer for use, prior to July 1, 2007, special voluntary employee incentive programs, including a 50% workweek option, flexible position staffing and time off without pay. Employee participation in a voluntary employee incentive program is subject to the approval of the employee's appointing authority.

**Sec. GG-2. Continuation of health insurance.** Notwithstanding the Maine Revised Statutes, Title 5, section 285, subsection 7 and section 903, for state employees who apply prior to July 1, 2007 to participate in a voluntary employee incentive program, the State shall continue to pay health and dental insurance benefits based upon the scheduled workweek in effect prior to the participation in the voluntary employee incentive program.

**Sec. GG-3. Continuation of group life insurance.** Notwithstanding the Maine Revised Statutes, Title 5, sections 903 and 18056 and the rules of the Maine State Retirement System, the life, accidental death and dismemberment, supplemental and dependent insurance amounts for state employees who apply prior to July 1, 2007 to participate in voluntary employee incentive programs are based upon the scheduled hours of the employees prior to the participation in the voluntary employee incentive programs.

**Sec. GG-4. General Fund savings.** Notwithstanding the Maine Revised Statutes, Title 5, section 1585, the State Budget Officer shall transfer the General Fund savings resulting from the voluntary employee incentive program to the General Fund Compensation and Benefit Plan account in the Department of Administrative and Financial Services. The State Budget Officer shall submit to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a report of the transferred amounts no later than January 15, 2007.

**Sec. GG-5. Lapsed balances.** Notwithstanding any other provision of law, \$350,000 in fiscal year 2005-06 and \$350,000 in fiscal year 2006-07 of savings identified from the voluntary employee incentive program in section J-4, lapses to the General Fund.

## **PART HH**

**Sec. HH-1. 5 MRSA §87,** is amended to read:

A fee of ~~\$25~~ \$50 shall be paid to the Secretary of State by any person appointed to the office of notary public, commissioner to take depositions and disclosures, disclosure commissioner and commissioner appointed under Title 33, section 251, before the person enters upon the discharge of official duties.

**Sec.HH-2. 13-B MRSA §1401, sub-§§34 and 35,** are amended to read:

**34. Late filing; penalty.** For failing to deliver an annual report by its due date, in addition to the annual report filing fee, ~~\$10~~ \$25; and

**35. Reinstatement fee after administrative dissolution of domestic or foreign corporation.** For failure to file an annual report, ~~\$10~~ \$25 for each period of delinquency; for failure to pay the annual report late filing penalty, ~~\$10~~ \$25; for failure to appoint or maintain a registered agent or registered office, ~~\$10~~ \$25; for failure to notify the Secretary of State that its registered agent or registered office has been changed, that its registered agent has resigned or that its registered office has been discontinued, ~~\$10~~ \$25; and for filing false information, ~~\$10~~ \$25.

**Sec. HH-3. 13-C MRSA §123, sub-§1, ¶J,** is amended to read:

**J.** For a notice of resignation of a clerk or registered agent, the fee is ~~\$20~~ \$35.

**Sec. HH- 4. 13-C MRSA §123, sub-§1, ¶¶U to X,** are amended to read:

**U.** For an application for reinstatement following administrative dissolution for failure to file an annual report, the fee is ~~\$125~~ \$150. The maximum reinstatement fee may not exceed ~~\$500~~ \$600, regardless of the number of delinquent reports or the period of delinquency.

**V.** For an application for reinstatement following administrative dissolution

for failure to pay the annual report late filing penalty, the fee is ~~\$25~~ \$150.

W. For an application for reinstatement following administrative dissolution for failure to appoint or maintain a clerk or registered office, the fee is ~~\$25~~ \$150.

X. For an application for reinstatement following administrative dissolution for failure to notify the Secretary of State that its clerk or registered office has been changed, that its clerk has resigned or that its registered office has been discontinued, the fee is ~~\$25~~ \$150.

**Sec. HH-5. 13-C MRSA §123, sub-§1, ¶J,** is amended to read:

EE. For failing to deliver an annual report by its due date in addition to the annual report filing fee, the fee is ~~\$25~~ \$50.

**Sec. HH-6. 31 MRSA §526, sub-§6-A,** is amended to read:

**6-A. Reinstatement fee after administrative dissolution.** For failure to file an annual report, a fee of ~~\$125~~ \$150, to a maximum fee of ~~\$500~~ \$600, regardless of the number of delinquent reports or the period of delinquency; for failure to pay the annual report late filing penalty, a fee of ~~\$100~~ \$150; for failure to appoint or maintain a registered agent or registered office, a fee of ~~\$100~~ \$150; for failure to notify the Secretary of State that its registered agent or registered office has been changed, that its registered agent has resigned or that its registered office has been discontinued, a fee of ~~\$100~~ \$150; for failure to file an amended application, a fee of ~~\$100~~ \$150; and for filing false information, a fee of ~~\$100~~ \$150;

**Sec. HH-7. 31 MRSA §526, sub-§15-B,** is amended to read:

**15-B. Amended annual report.** For filing an amended annual report under section 529-A, a fee of ~~\$10~~ \$85;

**Sec. HH-8. 31 MRSA §526, sub-§15-B,** is amended to read:

**21. Late filing penalty.** For failing to deliver an annual report by its due date, in addition to the annual report filing fee, a fee of ~~\$25~~ \$50.

**Sec. HH-9. 31 MRSA §751, sub-§7-A,** is amended to read:

**7-A. Reinstatement fee after administrative dissolution.** For failure to file an annual report, a fee of ~~\$125~~ \$150, to a maximum fee of ~~\$500~~ \$600, regardless of the number of delinquent reports or the period of delinquency; for failure to pay the annual report late filing penalty, a fee of ~~\$100~~ \$150; for failure to appoint or maintain a registered agent or registered office, a fee of ~~\$100~~ \$150; for failure to notify the Secretary of State that its registered agent or registered office has been changed, that its registered agent has

resigned or that its registered office has been discontinued, a fee of ~~\$100~~ \$150; and for filing false information, a fee of ~~\$100~~ \$150;

**Sec. HH-10. 31 MRSA §751, sub-§20-B,** is amended to read:

**20-B. Amended annual report.** For filing an amended annual report under section 757-A, a fee of ~~\$10~~ \$85;

**Sec. HH-11. 31 MRSA §751, sub-§26,** is amended to read:

**26. Late filing penalty.** For failing to deliver an annual report by its due date in addition to the annual report filing fee, a fee of ~~\$25~~ \$50.

**Sec. HH-12. 31 MRSA §871, sub-§7-A,** is amended to read:

**7-A. Reinstatement fee after revocation.** For failure to file an annual report, a fee of ~~\$125~~ \$150, to a maximum fee of ~~\$500~~ \$600, regardless of the number of delinquent reports or the period of delinquency; for failure to pay the annual report late filing penalty, a fee of ~~\$100~~ \$150; for failure to appoint or maintain a registered agent or registered office, a fee of ~~\$100~~ \$150; for failure to notify the Secretary of State that its registered agent or registered office has been changed, that its registered agent has resigned or that its registered office has been discontinued, a fee of ~~\$100~~ \$150; for failure to file an amended application, a fee of ~~\$100~~ \$150; and for filing false information, a fee of ~~\$100~~ \$150;

**Sec. HH-13. 31 MRSA §871, sub-§18-B,** is amended to read:

**18-B. Amended annual report.** For filing an amended annual report under section 873-A, a fee of ~~\$10~~ \$85;

**Sec. HH-14. 31 MRSA §871, sub-§22,** is amended to read:

**22. Late filing penalty.** For failing to deliver an annual report by its due date, in addition to the annual report filing fee, a fee of ~~\$25~~ \$50.

## **PART II**

**Sec. II-1. 36 MRSA §6207, sub-§§1 and 2,** as amended by PL 1997, c. 557, Pt. A, §3 is further amended to read:

**1. Benefit calculation.** For claimants representing a non elderly household, the benefit is calculated as follows:

A-1. Fifty percent of that portion of the benefit base that exceeds 4% but does not exceed 8% of income plus 100% of that portion of the benefit base that exceeds 8% of income to a maximum payment of \$1,000.

The State Tax Assessor shall increase the maximum payment amount provided in paragraph A-1 no later than August 15, 2007, and annually thereafter, by an amount determined by the sum of any funds in the so-called circuit breaker reserve under section 6203-A as of July 1st of the fiscal year. In no fiscal year may the maximum payment amount arising from the adjustment made by the State Tax Assessor be less than in the prior fiscal year. The maximum payment amount must be rounded down to the nearest \$50.

**2. Income eligibility.** Single-member households with household incomes in excess of ~~\$25,700~~ \$50,000 and households with 2 or more members with a household income in excess of ~~\$40,000~~ \$75,000 are not eligible for a benefit.

## **PART JJ**

**Sec. JJ-1. 36 MRSA §6656**, as amended by PL 2001, c. 714, Pt. BB, §2 is further amended to read:

### **§6656. Payment of claims; procedure for reimbursement**

Except as provided in section 6652, subsection 3, upon receipt of a timely and properly completed claim for reimbursement, the State Tax Assessor shall certify that the claimant is eligible for reimbursement and shall pay the amount claimed ~~from the General Fund~~ as provided by this section by November 1st or within 90 days after receipt of the claim, whichever is later. For those claims for which payments are withheld pursuant to section 6652, subsection 3, reimbursement must be paid within 90 days after the assessor receives notification under that subsection that the report has been received.

Notwithstanding any other provision of law, the State Tax Assessor shall determine the benefit for each claimant under this chapter and certify the amount to the State Controller to be transferred to the so-called Business Equipment Tax Reimbursement Reserve account established, maintained and administered by the State Controller from General Fund undedicated revenue within the individual income tax category. The assessor shall pay the certified amounts to each approved applicant qualifying for the benefit under this chapter. Interest may not be allowed on any payment made to a claimant pursuant to this chapter.

## **PART KK**

**Sec. KK-1. 5 MRSA §1507, sub-§7, as amended by PL 2003, c. 689, §B6 and 7,** is amended to read:

**7. Procedure.** All allocations from the State Contingent Account must be supported by a statement of facts setting forth the necessity for the allocation. A copy of each order for an allocation, together with the statement of facts, must be provided to the Office of Fiscal and Program Review, the joint standing committee having jurisdiction over economic development matters, to the President of the Senate and to the Speaker of the House of Representatives when the allocation is made.

The State Controller shall include in his official annual financial report at the close of each fiscal year a statement showing all transfers made from the State Contingent Account for the fiscal period.

After the close of each fiscal year, the Governor may request a General Fund appropriation from the next session of the Legislature in an amount as may be available to bring the total available in the State Contingent Account to a maximum of \$2,350,000 for the current fiscal year.

At the close of each fiscal year, there must be transferred from the General Fund an amount as may be available from time to time until the maximum of \$350,000 is achieved to be used for the purposes specified in subsections 1 to 6.

Notwithstanding any other statute, if the funds remaining in the State Contingent Account are not sufficient to address a purpose consistent with the purposes specified in subsection 4, the Governor may upon consultation with the State Budget Officer access any funds available to the State. The Governor shall identify by financial order the account, fund or other source from which payment is made.

## **PART LL**

**Sec. LL-1. Title 5, c.164** is enacted to read:

### **Pharmaceutical Cost Management Council**

**1. Council established.** The Pharmaceutical Cost Management Council, referred to in this subsection as “the council,” is established and consists of eight members as follows:

A. The Commissioner of the Department of Administrative and Financial Services or designee;

B. The Commissioner of the Department of Health and Human Services or designee;

C. The Executive Director of the Maine Workers' Compensation Board or designee;

D. One representative of private payers who join the Council;

E. One member from each of the publicly funded groups:

1. the Maine State Employees' Health Insurance Program;

2. the Maine Education Association Benefits Trust; and

3. the Maine School Management Association Health Insurance Program.

F. The Executive Director of the Governor's Office of Health Policy and Finance or the director's designee.

**2. Chair and Staff Assistance.** The Chair of the Council shall be the Executive Director of the Governor's Office of Health Policy and Finance or the director's designee, who shall convene the Council. The Governor's Office of Health Policy and Finance shall provide necessary staffing services to the Council.

**3. Purpose.** The purpose of the Council is to maximize the cost effectiveness of the pharmaceutical benefit offered by all health plans which are financed, in whole or in part, with public dollars. Other public purchasers not listed above and private purchasers may be allowed to join the Council to participate in savings opportunities.

**4. Parameters of joint purchasing effort.** The Council will jointly purchase pharmaceuticals with the State in order to reduce costs for all participating parties. This effort is intended only to maximize savings by pooling purchasing power. It is not intended to fundamentally alter the independent nature of any of the health plans involved in the Council. The joint purchasing initiative shall assure:

A. Each of the participating plans will retain their distinct natures, with members of each plan maintaining their current medical coverage and participating organizations retaining current contracts, except for amendments required to implement the joint pharmaceutical purchasing initiative;

B. The members of participating plans will have open access to all prescription drugs; as medically needed, a three-tiered pharmaceutical benefit will be designed and implemented;

C. Full coverage of certain drugs will be contingent upon satisfaction of clinical criteria;



D. A preferred drug list will identify clinically efficacious, high quality prescription drugs that are also cost effective; these drugs will not require prior approval. The preferred drug list will to the extent possible be based on MaineCare's preferred drug list and will be advised by MaineCare's clinical drug utilization committee;

E. Administrative efficiencies will be realized by pooled purchasing; clinically efficacious, cost effective drugs will be preferred and rebates will be negotiated on behalf of the entire group;

F. Reimbursement for prescription generic drugs will be capped at maximum allowable costs or the MaineCare bid price whichever is lower;

G. Incentives will be implemented to reward the use of mail order; and

H. All participating plans shall share in the savings realized through the pooled purchasing effort.

**Sec. LL-2. Calculation and transfer.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in Part B, section 1 that applies against each General Fund account for all departments and agencies from savings in the cost of health insurance attributable to maximizing the cost effectiveness of the pharmaceutical benefit provided by publicly offered health insurance plans and shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to appropriations in fiscal years 2005-06 and 2006-07. The State Budget Officer shall provide the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a report of the transferred amounts no later than January 15, 2007.

**Sec. LL-3. Calculation and transfer.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in Part B, section 1 that applies against the General Purpose Aid for Local Schools and Retired Teachers' Health Insurance General Fund accounts within the Department of Education from savings in the cost of health insurance attributable to maximizing the cost effectiveness of the pharmaceutical benefit provided by publicly offered health insurance plans and shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to appropriations in fiscal year 2006-07. The State Budget Officer shall provide the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a report of the transferred amounts no later than January 15, 2007.

## **PART MM**

**Sec. MM-1. Calculation and transfer.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in Part B, section 1 that applies against each General Fund account for all departments and agencies from savings in the cost of health insurance attributable to reductions of hospital inpatient rates and shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to appropriations in fiscal year 2006-07. The State Budget Officer shall provide the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a report of the transferred amounts no later than January 15, 2007.

**Sec. MM-2. Calculation and transfer.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in Part B, section 1 that applies against the General Purpose Aid for Local Schools and Retired Teachers' Health Insurance General Fund accounts within the Department of Education from savings in the cost of health insurance attributable to reductions of hospital inpatient rates and shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to appropriations in fiscal years 2005-06 and 2006-07. The State Budget Officer shall provide the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a report of the transferred amounts no later than January 15, 2007.

## **PART NN**

**Sec. NN-1. Reduction of regulatory and administrative burdens for health and human services providers.** Notwithstanding any other provision of law, the Commissioner of the Department of Health and Human Services shall organize and implement work groups to include staff of the Department Health and Human Services and staff of health and human services providers for the purpose of achieving reductions in regulatory and administrative burdens for health and human services providers.

The Commissioner of the Department of Health and Human Services shall organize and implement the following work groups with a goal to achieve a reduction in the costs of regulatory and administrative processes in each such work group area:

1. Licensing
2. Contracts
3. Audit
4. Billing
5. Other administrative processes

The Commissioner of the Department of Health and Human Services shall report no later than January 31, 2006 to the joint standing committee of the Legislature having jurisdiction over health and human services and the joint standing committee of the

Legislature having jurisdiction over appropriations and financial affairs the results of each of the above referenced work groups including the amount of annual savings achieved.

## **PART OO**

**Sec. OO-1. Transfer from Personal Services to All Other.** Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, available Personal Services salary savings balances in fiscal year 2005-06 and 2006-07 in Bangor Mental Health Institute accounts, that result from Physician positions that are vacant as a result of the inability to recruit, may be transferred to All Other by financial order upon recommendation of the State Budget Officer and approval of the Governor.

## **PART PP**

**Sec. PP-1. 22 M.R.S.A. §4003, sub-§1, as enacted by PL 1979, c. 733, §18, is amended to read:**

### **§4003. Purposes**

Recognizing that the health and safety of children must be of paramount concern and that the right to family integrity is limited by the right of children to be protected from abuse and neglect and recognizing also that uncertainty and instability are possible in extended foster home or institutional living, it is the intent of the Legislature that this chapter:

**1. Authorization.** Authorize the department to protect and assist abused and neglected children, children in circumstances ~~which~~ that present a substantial risk of abuse and neglect, and their families. The department is authorized to contract with any partnership, association, corporation, limited liability company or other legal entity recognized under the laws of the State of Maine for the provision of services to these children and their families while they are involved in any child protective investigation or other subsequent proceeding described in this chapter. In undertaking any activity essential to performance under such contract, the contractor shall be immune from any criminal or civil liability for such performance if acting in good faith;

**Sec. PP-2. 22 M.R.S.A. §4004, sub-§2, as amended by PL 2001, c. 559, §CC-1, is further amended to read:**

**2. Duties.** The department shall act to protect abused and neglected children and children in circumstances that present a substantial risk of abuse and neglect, to prevent further abuse and neglect, to enhance the welfare of these children and their families and to preserve family life wherever possible. The department shall:

- A. Receive reports of abuse and neglect;
- B. Promptly investigate all abuse and neglect cases coming to its attention or in the case of out-of-home abuse and neglect investigations, the department shall act in accordance with subchapter XI-A;
- C. Determine the degree of harm or threatened harm to each child in each case;
- D. [2001, c. 559, Pt. CC, §1 (rp).]
- E. If, after investigation, the department does not file a petition under section 4032 but does open a case to provide services to the family to alleviate child abuse and neglect in the home, assign or contract for the services of a caseworker, who shall:
  - (1) Provide information about rehabilitation and other services that may be available to assist the family; and
  - (2) Develop with the family a written child and family plan.

The child and family plan must identify the problems in the family and the services needed to address those problems; must describe responsibilities for completing the services, including, but not limited to, payment for services, transportation and child care services and responsibilities for seeking out and participating in services; and must state the names, addresses and telephone numbers of any relatives or family friends known to the department or parent to be available as resources to the family.

The child and family plan must be reviewed every 6 months, or sooner if requested by the family or the department; and
- F. File a petition under section 4032 if, after investigation, the department determines that a child is in immediate risk of serious harm or in jeopardy as defined in this chapter.

**Sec. PP-3. 22 M.R.S.A. §4004-A, sub-§1, as enacted by PL 1993, c. 724, §1, is amended to read:**

**§4004-A. Voluntary agreements**

**1. Agreement authorized.** If the following conditions are met, the department and a custodian may enter into a mutual agreement in which the custodian retains custody of the child and the department agrees to provide services to the child. The terms of the mutual agreement may be negotiated by a contractor acting as the department's agent, who may also thereafter provide services to the child pursuant to the same contract and be considered a party to the mutual agreement.

- A. The department finds that staying in the custodian's home would be detrimental to the welfare of the child.
- B. The department finds that, absent a mutual agreement, the child is at risk of

entering the child protection system or the juvenile justice system.

**Sec. PP-4. 22 M.R.S.A. §4004-B, sub-§5, as enacted by PL 2003, c. 673, §Z-1, is amended to read:**

**5. Develop plan for safe care.** For each infant whom the department determines to be affected by illegal substance abuse or to be suffering from withdrawal symptoms resulting from prenatal drug exposure, develop, with the assistance of any health care provider involved in the mother's or the child's medical or mental health care, develop or assign a contractor acting as its agent to develop a plan for the safe care of the infant and, in appropriate cases, refer the child or mother or both to a social service agency or voluntary substance abuse prevention service; and

**Sec. PP-5. 22 M.R.S.A. §4064, sub-§4, as enacted by PL 1979, c. 733, §18, is amended to read:**

**4. Rights of the department.** Except as delegated in this section or by agreement, the department shall retain custody of the child and all custody rights as provided by court order, statute or rule. The department is authorized to contract with any partnership, association, corporation, limited liability company or other legal entity recognized under the laws of the State of Maine to provide services to any child in long term foster care in accordance with this subchapter. In undertaking any activity essential to performance under such a contract, the contractor shall be immune from any criminal or civil liability for such performance if acting in good faith.

## **PART QQ**

**Sec. QQ-1. Authority to change foster care reimbursement rates and methods.** Notwithstanding any other provision of law, the Department of Health and Human Services is authorized to change reimbursement rates and methods for the various levels of care within the foster care system, which changes may be phased in over time if the department chooses.

## **PART RR**

**Sec. RR-1. 34-B M.R.S.A. §15002, sub-§4, as enacted by PL 1997, c. 790, §A-1,** is amended to read:

**4. Grievance; appeal.** The provisions of this subsection govern the right to grievance and appeal. The department shall provide notice to children and their families and guardians about the right to an informal grievance process and a formal appeal under this section for the review of care for the child, including clinical diagnosis and care, and departmental decisions.

A. The departments shall adopt rules providing for an informal grievance process that may be initiated at the request of a child or the child's family. The informal grievance process, which may utilize mediation, must include a written decision with findings of fact by an impartial hearing officer within one week of the filing of the grievance if mediation is not requested by the child or the child's family and, if mediation is requested, within 2 weeks of the filing of the grievance. Providers of care and advocates for the child may be heard at the request of the child or the child's family. The informal grievance process is provided in addition to any rights of appeal that may be available under law, rule or regulation. If the right to appeal is limited to a certain time period, that time period begins to run on the date of issuance of a decision under this paragraph. The requirement of an impartial hearing officer may be met by use of a hearing officer or mediator who is an employee of the department's Office of Administrative Hearings and who was not involved in any earlier consideration of the matter that is the subject of the grievance.

## **PART SS**

**Sec. SS-1. 22 M.R.S.A. §3174-Q, as enacted by PL 1995, c. 696, §B-2,** is repealed and replaced with the following:

### **§3174-Q. Medicaid stability.**

Except as otherwise provided in this chapter, the department is authorized to determine benefit structures, eligibility levels and reimbursement methods under the MaineCare program. If the commissioner identifies the need for a reduction of expenditures in the MaineCare program to be achieved through any changes in the benefit structures, eligibility levels or reimbursement methods, the commissioner shall provide to the Legislature a minimum of thirty days advance notice of the effective date of such change, or if to be done through rulemaking, at least thirty days advance notice of

the publication of any notice of proposed rulemaking. Advance notice shall be provided to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, as well as to the joint standing committee of the Legislature having jurisdiction over health and human services matters.

## **PART TT**

**Sec. TT-1. 22 M.R.S.A. §13, sub-§5, as enacted by PL 2001, c. 464, §1, is amended to read:**

**5. Audit methods.** When conducting audits pursuant to this section, the department may not engage a private vendor to conduct the audit or base any auditor's compensation on a percentage of the alleged overpayment amount, except that the department may engage a private vendor to conduct audits of providers located outside the State of Maine and may base that vendor's compensation on a percentage of the amount of overpayment received by the department. The department shall disclose to the public any mathematical algorithm used in performance of an audit.

## **PART UU**

**Sec. UU-1 22 M.R.S.A. §254, paragraph three, as enacted by PL 2001, c. 691, §1, is amended to read:**

### **§254. Elderly low-cost drug program**

The Department of Health and Human Services may conduct a program, referred to in this section as the "program," to provide low-cost prescription and nonprescription drugs, medication and medical supplies to disadvantaged, elderly and disabled individuals.

The commissioner shall provide for sufficient personnel to ensure efficient administration of the program. The extent and the magnitude of the program must be determined by the commissioner on the basis of the calculated need of the recipient population and the available funds. The department may not spend more on this program than is available through appropriations from the General Fund, dedicated revenue, federal or other grants and other established and committed funding sources. The commissioner may accept, for the purposes of carrying out this program, federal funds appropriated under any federal law relating to the furnishing of free or low-cost drugs to disadvantaged, elderly and disabled individuals and may take such action as is necessary for the purposes of carrying out that federal law and may accept from any other agency of government, individual, group or corporation such funds as may be available to carry out this chapter.

The commissioner shall make available suitable applications with instructions for

applicants. By submitting an application or participating in a review to redetermine eligibility for benefits under this section, the applicant agrees that, if the applicant is determined to be otherwise eligible for benefits under this section, the department shall serve as the authorized representative of the applicant for the purpose of enrollment in any Medicare D plan. The department shall choose which Medicare D plan, options or coverage in which to enroll the applicant and may choose to apply for any available subsidies on behalf of the applicant. The Department may promulgate rules that describe any circumstances in which it will be permissible for any applicant otherwise eligible for benefits under this section to retain the right to enroll or make other choices in connection to Medicare D coverage.

The commissioner may adopt rules relating to the conduct of this program. These rules must be adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, and must be related to the following aspects of this program:

**Sec. UU-2. 22 M.R.S.A. §254, sub-§1-A, as enacted by PL 2001, c. 691, §1, is amended to read:**

**1-A. Eligibility.** An individual is eligible for the program if that individual meets the eligibility criteria set forth in this section and the following additional conditions.

- A. An individual must be a legal resident of the State.
- B. An individual does not receive full MaineCare pharmaceutical benefits;
- C. An individual is not eligible for Medicare D benefits as of January 1, 2006, or the date when enrollment for Medicare D coverage becomes available to the individual, whichever date is later.
- D. With regard to eligibility for “wrap benefits” only, an individual eligible for full MaineCare benefits as well as Medicare D coverage may also receive “wrap benefits” to the extent provided in rules to be adopted by the department.

**Sec. UU-3 22 M.R.S.A. §254, sub-§13, is enacted to read:**

**13. Wrap services.** The department may adopt rules to provide coverage under this section of certain drugs that are not covered under Medicare D to individuals who are eligible for both full MaineCare benefits and Medicare D coverage to the extent that the department determines resources are available to fund this coverage.

## **PART VV**

**Sec. VV-1. 36 M.R.S.A. §2551, sub-§1-A is enacted to read:**

**1-A. Community support service.** A “community support service” means a rehabilitative service that is provided in the context of a supportive relationship, pursuant to an individual support plan that promotes a person’s recovery and integration of the person into the community, and sustains the person in his or her current living situation or



another living situation of his or her choice. A “community support service” is provided only by a designated community support service provider licensed by and operating under a contract with the Department of Health and Human Services for such service, whether the provider is reimbursed through participation in the MaineCare program or with state grant funds.

**Sec. VV-2. 36 M.R.S.A. §2552, sub-§1, as enacted by PL 2003, c. 673, §V-25,** is amended to read:

**1. Rate.** A tax at the rate of 5% is imposed on the value of the following services sold in this State:

- A. Extended cable television services;
- B. Fabrication services;
- C. Rental of video media and video equipment;
- D. Rental of furniture, audio media and audio equipment pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105;
- E. Telecommunications services;
- F. The installation, maintenance or repair of telecommunications equipment; ~~and~~
- G. Private nonmedical institution services;
- H. Services provided by assisted living programs as defined in Title 22, section 7852, subsection 4;
- I. Services provided by residential care facilities as defined in Title 22, section 7852, subsection 14; and
- J. Community support services.

**Sec. VV-3. 36 M.R.S.A. §2559, as enacted by PL 2003, c. 673, §V-25,** is amended to read:

Revenues derived by the tax imposed by this chapter must be credited to a General Fund suspense account. On or before the last day of each month, the State Controller shall transfer a percentage of the revenues received by the State Tax Assessor during the preceding month pursuant to the tax imposed by section 2552, subsection 1, paragraphs A through F to the Local Government Fund as provided in Title 30-A, section 5681, subsection 5. The balance remaining in the General Fund suspense account must be transferred to service provider tax General Fund revenue. On or before the 15<sup>th</sup> day of each month, the State Controller shall transfer all revenues received by the assessor during the preceding month pursuant to the tax imposed by section 2552, subsection 1, ~~paragraph G~~ paragraphs G, H, I, and J to the Medical Care Services Other Special Revenue Funds account ~~in the Department of Human Services~~ or the Other Special Revenue funds Mental Health Services – Community Medicaid program, the Medicaid Services – Mental Retardation program and the office of Substance Abuse – Medicaid Seed program within the Department of ~~Behavioral and Developmental~~ Health and Human Services.

## PART WW

Sec. WW-1. 24 M.R.S.A. §2325-A, sub-§3, as amended by PL 2003, c. 20, §VV-5, is further amended to read:

**3. Definitions.** For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings:

A-1. “Crisis intervention services” for adults mean those immediate crisis-oriented services provided to an adult with a serious problem of disturbed thought, behavior, mood or social relationships. Services are oriented toward the amelioration and stabilization of those acute emotional disturbances to ensure the safety of an individual or society. These services will be provided by a mobile unit in a variety of locations including the patient’s home, shelters and emergency rooms and will include identification and prevention, assessment and screening, intervention, brief counseling services, acute treatment planning, problem resolution, clinical consultation and short-term followup to assist individuals in developing adaptive coping skills and to become more integrated into their community. Covered services include direct telephone contact with the adult within seven (7) days of the first contract related to the crisis-oriented service and must be provided by a mental health worker who is directly supervised by a qualified mental health professional.

A-2. “Crisis resolution services” for children mean those services provided by agencies that have a contract with the Department of Health and Human Services, for eligible children ages twenty (20) or less that include outreach crisis intervention to home, school, street, emergency shelter or other setting, available on a 24-hour, seven-day a week basis. Covered services include direct telephone contacts with both the child and the child’s legally responsible party when at least one face-to-face contact is made with the child within seven (7) days of the first contact related to the crisis resolution service. The substance of the telephone contact(s) must be such that the child is the focus of the services. A written plan of care for the child must be developed and reviewed with the family within thirty (30) days after the initial crisis event.

A-3. “Crisis support services” for children mean those personal supervision services and therapeutic supports provided to a child during a psychiatric emergency and for a time limited post-crisis period during which the child’s condition is being stabilized. These services may be provided in the child’s home or in a temporary out-of-home setting and include monitoring of behavior and response to therapeutic interventions, participation and assistance during crisis and post-crisis stabilization activities, and supervision to assure personal safety. These services may be limited to a ten (10) day period beginning with the precipitating psychiatric emergency.

A-4. “Crisis support services” for adults mean those personal supervision and therapeutic support services provided to an adult during a psychiatric emergency. These services are provided primarily in a patient’s home or temporary living situation and include monitoring of behavior and response to therapeutic interventions, assistance in participation in crisis-oriented treatment activities, and supervision to assure personal

safety. Crisis support services shall be provided by a mental health worker directly supervised by a qualified mental health professional.

**A-5.** "Day treatment services" includes psychoeducational, physiological, psychological and psychosocial concepts, techniques and processes to maintain or develop functional skills of clients, provided to individuals and groups for periods of more than 2 hours but less than 24 hours per day.

**A-6.** "Diagnostic and statistical manual" means the Diagnostic and Statistical Manual of Mental Disorders, 4th edition, published by the American Psychiatric Association.

**A-7.** "Emergency services" for children mean those immediate, crisis-oriented services provided to a child with an acute problem of disturbed thought, behavior, mood or social relationships. Services are oriented toward the amelioration and stabilization of these acute emotional disturbances to ensure the safety of an individual or society and include all components of assessment, screening, intervention, and disposition commonly considered appropriate to the provision of emergency mental health care. Covered services include direct telephone contacts with both the child and the child's legally responsible party for up to fourteen (14) when at least one face-to-face contact is made with the child within seven (7) days of the first contact related to the presenting emergency.

**A-8.** "Emergency services" for adults mean those immediate crisis-oriented services provided to an adult with an acute problem of disturbed thought, behavior, mood, or social relationships. Services are oriented toward the amelioration and stabilization of these acute emotional disturbances to ensure the safety of an individual or society and include all components of assessment, evaluation, screening, intervention, and disposition commonly considered appropriate to the provision of emergency mental health care. Emergency services are covered when each mental health worker provided pursuant to an approved individual treatment (service) plan receives regular, periodic clinical supervision by a qualified mental health professional and backup services are available within one hour from the time of contact. Covered services include direct telephone contacts with the adult for up to fourteen (14) days when at least one face-to-face contact is made with the adult related to the presenting emergency.

**A-9.** "Evidence based treatment" means any one of the following:

(1) Assertive Community Treatment (ACT) : ACT is provided by multidisciplinary teams on a twenty-four hours per day, seven days a week basis to individuals for whom other treatment approaches have been unsuccessful. Using an integrated service approach and a staff-member ratio of not more than one-to-ten, ACT merges clinical and rehabilitative staff expertise to assist members with symptom stability; relapse prevention; housing; establishment of social support networks; minimizing involvement with the criminal justice system; and services to enable the person to function at a worksite.

(2) Family Psychoeducation Treatment Services: Family Psychoeducation Treatment Services are provided in multi-family and single family sessions. Clinical program elements include engagement sessions, psychoeducation workshops, and on-

going co-facilitated supportive sessions focused on solving problems that interfere with treatment and rehabilitation. Supportive sessions continue for at least two years for individuals with schizophrenic disorders and at least one year for other individuals. Supportive sessions are initially provided on a bi-weekly basis and become monthly as patients become clinically stable and the therapeutic focus shifts to rehabilitation.

(3) Wellness Recovery Action Plan: Wellness Recovery Action Planning is a curriculum based recovery group, co-facilitated, that explores foundational concepts of recovery and wellness and utilizes the development of tools for a personal plan that promotes an improved quality of life while decreasing the incidence of severe symptoms. The group meets for a maximum of twelve sessions of two hours each.

(4) Trauma Recovery and Empowerment Group (TREM): TREM groups utilize a skills-based group treatment approach to address issues of sexual, physical, and emotional abuse. The co-facilitated groups meet for a maximum of thirty-three weeks. Sessions focus on empowerment and trauma recovery. Each session is seventy-five minutes long and includes a combination of discussion and experiential exercises. Format for the group is based upon a clinician's guide authored by Maxine Harris, Ph.D.

(5) Dialectical Behavioral Therapy (DBT): DBT is a skills training group conducted in a psychoeducational format. Skills training consists of four modules: mindfulness, distress tolerance, interpersonal effectiveness in conflict situations, and emotional regulation. Groups meet weekly for two to two and one-half hour sessions for up to one year. Format for the group is based upon "Skills Training Manual for Treating Border-Line Personality Disorder" authored by Marsha M. Linehan.

(6) Multisystemic Therapy (MST): MST is an intensive family and community based treatment that addresses multiple determinants of serious antisocial behavior in children. MST strives to promote behavior change in the child's natural environment, using the strengths of each system (e.g., family, peers, school, neighborhood, indigenous support network) to facilitate change. MST is provided using a home-based model of services delivery.

**A-2 A-10.** "Home health care services" means those services rendered by a licensed provider of mental health services to provide medically necessary health care to a person suffering from a mental illness in the person's place of residence if:

(1) Hospitalization or confinement in a residential treatment facility would otherwise have been required if home health care services were not provided;

(2) Hospitalization or confinement in a residential treatment facility is not required as an antecedent to the provision of home health care services; and

(3) The services are prescribed in writing by a licensed allopathic or osteopathic physician or a licensed psychologist who is trained and has received a doctorate in psychology specializing in the evaluation and treatment of mental illness.

**B.** "Inpatient services" includes a range of physiological, psychological and other intervention concepts, techniques and processes in a community mental health psychiatric inpatient unit, general hospital psychiatric unit or psychiatric hospital licensed by the

Department of Health and Human Services or accredited public hospital to restore psychosocial functioning sufficient to allow maintenance and support of the client in a less restrictive setting

**B-1.** "Medically necessary health care" has the same meaning as in Title 24-A, section 4301-A, subsection 10-A.

**C.** "Outpatient services" includes screening, evaluation, consultations, diagnosis and treatment involving use of psychoeducational, physiological, psychological and psychosocial evaluative and interventive concepts, techniques and processes provided to individuals and groups.

**D.** "Person suffering from a mental illness" means a person whose psychobiological processes are impaired severely enough to manifest problems in the areas of social, psychological or biological functioning. Such a person has a disorder of thought, mood, perception, orientation or memory that impairs judgment, behavior, capacity to recognize or ability to cope with the ordinary demands of life. The person manifests an impaired capacity to maintain acceptable levels of functioning in the areas of intellect, emotion or physical well-being.

**E.** "Provider" means those individuals included in Title 24-A, section 2744, subsection 1, and a licensed physician, an accredited public hospital or psychiatric hospital or a community agency licensed at the comprehensive service level by the Department of Health and Human Services. All agency or institutional providers named in this paragraph shall ensure that services are supervised by a psychiatrist or licensed psychologist

**Sec. WW-2. 24 M.R.S.A. §2325-A, sub-§5, as amended by PL 2003, c. 20, §VV-4,** is further amended to read:

**5. Services.** Each group contract must provide for medically necessary health care for a person suffering from mental illness. Medically necessary health care includes, but is not limited to, the following services for a person suffering from a mental illness:

- A. Inpatient care;
- B. Day treatment services;
- C. Outpatient services; ~~and~~
- D. Home health care services; ~~and~~
- E. Evidence based treatment;
- F. Crisis intervention services for adults;
- G. Crisis resolution services for children;
- H. Crisis support services for children;
- I. Crisis support services for adults;
- J. Emergency services for children; and
- K. Emergency services for adults.

**Sec. WW-3. 24-A M.R.S.A. §2843, sub-§3, as amended by PL 2003, c. 20, §VV-12,** is further amended to read:

**3. Definitions.** For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

**A-1.** “Crisis intervention services” for adults mean the same services as defined in Title 24, section 2325-A, subsection 3, paragraph A-1.

**A-2.** “Crisis resolution services” for children mean the same services as defined in Title 24, section 2325-A, subsection 3, paragraph A-2.

**A-3.** “Crisis support services” for children mean the same services as defined in Title 24, section 2325-A, subsection 3, paragraph A-3.

**A-4.** “Crisis support services” for adults mean the same services as defined in Title 24, section 2325-A, subsection 3, paragraph A-4.

~~A-5.~~ **A-5.** "Day treatment services" includes psychoeducational, physiological, psychological and psychosocial concepts, techniques and processes to maintain or develop functional skills of clients, provided to individuals and groups for periods of more than 2 hours but less than 24 hours per day.

~~A-6.~~ **A-6.** "Diagnostic and statistical manual" means the Diagnostic and Statistical Manual of Mental Disorders, 4th edition, published by the American Psychiatric Association.

**A-7.** “Emergency services” for children mean the same services as defined in Title 24, section 2325-A, subsection 3, paragraph A-7.

**A-8.** “Emergency services” for adults mean the same services as defined in Title 24, section 2325-A, subsection 3, paragraph A-8.

**A-9.** “Evidence based treatment” means the same as defined in Title 24, section 2325-A, subsection 3, paragraph A-9.

~~A-10.~~ **A-10.** "Home health care services" means those services rendered by a licensed provider of mental health services to provide medically necessary health care to a person suffering from a mental illness in the person's place of residence if:

- (1) Hospitalization or confinement in a residential treatment facility would otherwise have been required if home health care services were not provided;
- (2) Hospitalization or confinement in a residential treatment facility is not required as an antecedent to the provision of home health care services; and
- (3) The services are prescribed in writing by a licensed allopathic or osteopathic physician or a licensed psychologist who is trained and has received a doctorate in psychology specializing in the evaluation and treatment of mental illness.

**B.** "Inpatient services" includes a range of physiological, psychological and other intervention concepts, techniques and processes in a community mental health psychiatric inpatient unit, general hospital psychiatric unit or psychiatric hospital licensed by the Department of Health and Human Services or accredited public hospital to restore psychosocial functioning sufficient to allow maintenance and

support of the client in a less restrictive setting.

B-1. "Medically necessary health care" has the same meaning as in section 4301-A, subsection 10-A.

C. "Outpatient services" includes screening, evaluation, consultations, diagnosis and treatment involving use of psychoeducational, physiological, psychological and psychosocial evaluative and interventive concepts, techniques and processes provided to individuals and groups.

D. "Person suffering from a mental illness" means a person whose psychobiological processes are impaired severely enough to manifest problems in the areas of social, psychological or biological functioning. Such a person has a disorder of thought, mood, perception, orientation or memory that impairs judgment, behavior, capacity to recognize or ability to cope with the ordinary demands of life. The person manifests an impaired capacity to maintain acceptable levels of functioning in the areas of intellect, emotion or physical well-being.

E. "Provider" means individuals included in section 2835, and a licensed physician with 3 years approved residency in psychiatry, an accredited public hospital or psychiatric hospital or a community agency licensed at the comprehensive service level by the Department of Health and Human Services. All agency or institutional providers named in this paragraph shall assure that services are supervised by a psychiatrist or licensed psychologist.

**Sec.WW-4. 24-A M.R.S.A. §2843, sub-§5, as amended by PL 2003, c. 20, §VV-13,** is further amended to read:

**5. Services.** Each group contract must provide for medically necessary health care for a person suffering from mental illness. Medically necessary health care includes, but is not limited to, the following services for a person suffering from a mental illness:

- A. Inpatient care;
- B. Day treatment services;
- C. Outpatient services; ~~and~~
- D. Home health care services;
- E. Evidence based treatment;
- F. Crisis intervention services for adults;
- G. Crisis resolution services for children;
- H. Crisis support services for children;
- I. Crisis support services for adults;
- J. Emergency services for children; and
- K. Emergency services for adults.

**Sec. WW-5 24-A M.R.S.A. §4234-A, sub-§3, as amended by PL 2003, c. VV-18,** is further amended to read:

**3. Definitions.** For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

**A-1.** "Crisis intervention services" for adults mean the same services as defined in Title 24, section 2325-A, subsection 3, paragraph A-1.

**A-2.** "Crisis resolution services" for children mean the same services as defined in Title 24, section 2325-A, subsection 3, paragraph A-2.

**A-3.** "Crisis support services" for children mean the same services as defined in Title 24, section 2325-A, subsection 3, paragraph A-3.

**A-4.** "Crisis support services" for adults mean the same services as defined in Title 24, section 2325-A, subsection 3, paragraph A-4.

~~A~~ **A-5.** "Day treatment services" includes psychoeducational, physiological, psychological and psychosocial concepts, techniques and processes necessary to maintain or develop functional skills of clients, provided to individuals and groups for periods of more than 2 hours but less than 24 hours a day.

~~A-4~~ **A-6.** "Diagnostic and Statistical Manual" means the Diagnostic and Statistical Manual of Mental Disorders, 4th edition, published by the American Psychiatric Association.

**A-7.** "Emergency services" for children mean the same services as defined in Title 24, section 2325-A, subsection 3, paragraph A-7.

**A-8.** "Emergency services" for adults mean the same services as defined in Title 24, section 2325-A, subsection 3, paragraph A-8.

**A-9.** "Evidence based treatment" means the same as defined in Title 24, section 2325-A, subsection 3, paragraph A-9.

~~A-2~~ **A-10.** "Home health care services" means those services rendered by a licensed provider of mental health services to provide medically necessary health care to a person suffering from a mental illness in the person's place of residence if:

- (1) Hospitalization or confinement in a residential treatment facility would otherwise have been required if home health care services were not provided;
- (2) Hospitalization or confinement in a residential treatment facility is not required as an antecedent to the provision of home health care services; and
- (3) The services are prescribed in writing by a licensed allopathic or osteopathic physician or a licensed psychologist who is trained and has received a doctorate in psychology specializing in the evaluation and treatment of mental illness.

B. "Inpatient services" includes a range of physiological, psychological and other intervention concepts, techniques and processes used in a community mental health psychiatric inpatient unit, general hospital psychiatric unit or psychiatric hospital licensed by the Department of Human Services or in an accredited public hospital to restore psychosocial functioning sufficient to allow maintenance and support of the client in a less restrictive setting.

B-1. "Medically necessary health care" has the same meaning as in section 4301-A,



subsection 10-A.

C. "Outpatient services" includes screening, evaluation, consultations, diagnosis and treatment involving use of psychoeducational, physiological, psychological and psychosocial evaluative and interventive concepts, techniques and processes provided to individuals and groups.

D. "Person suffering from a mental illness" means a person whose psychobiological processes are impaired severely enough to manifest problems in the area of social, psychological or biological functioning. Such a person has a disorder of thought, mood, perception, orientation or memory that impairs judgment, behavior, capacity to recognize or ability to cope with the ordinary demands of life. The person manifests an impaired capacity to maintain acceptable levels of functioning in the area of intellect, emotion or physical well-being.

E. "Provider" means an individual included in section 2744, subsection 1, a licensed physician, an accredited public hospital or psychiatric hospital or a community agency licensed at the comprehensive service level by the Department of Health and Human Services. All agency or institutional providers named in this paragraph shall ensure that services are supervised by a psychiatrist or licensed psychologist.

**Sec. WW-6. 24-A M.R.S.A. §4234-A, sub-§5, as amended by PL 2003, c. 20, §VV-19, is further amended to read:**

5. Services. Each individual or group contract must provide for medically necessary health care for a person suffering from mental illness. Medically necessary health care includes, but is not limited to, the following services for a person suffering from a mental illness:

- A. Inpatient services;
- B. Day treatment services;
- C. Outpatient services; ~~and~~
- D. Home health care services;
- E. Evidence based treatment;
- F. Crisis intervention services for adults;
- G. Crisis resolution services for children;
- H. Crisis support services for children;
- I. Crisis support services for adults;
- J. Emergency services for children; and
- K. Emergency services for adults.

## PART XX

**Sec.XX-1. 22 M.R.S.A. §1552, sub-§1. as amended by PL 2003, c. 673, §CC-1,** is further amended to read:

### **§1552. Application procedure**

**1. Application process; license fees.** An applicant for an annual retail tobacco license shall file an application in the form required by the department. The department shall make provisions for applications under this section. The fee for a retail tobacco license is ~~\$50~~ \$100 annually. The applicant shall enclose the fee with the application for the license.

## PART YY

**Sec. YY-1. Authority to change daily rate for unlicensed foster care providers.** Notwithstanding any other provision of law, the Department of Health and Human Services is authorized to change the daily rates for foster board and care paid to unlicensed homes and to provide the opportunity for those unlicensed homes, if they choose to apply, to pursue licensure that could result in a higher rate of payment.

## PART ZZ

**Sec. ZZ-1 36 MRSA §2891 sub-§4** is repealed:

~~**4. Tax year.** "Tax year" means the hospital payment year, as defined by the Department of Human Services, ending in the calendar year immediately preceding the year in which the state fiscal year for which the tax is being imposed begins.~~

**Sec. ZZ-2. 36 MRSA §2892** is amended to read:

For the state fiscal year beginning on July 1, 2003, a tax is imposed against each hospital in the State. The tax is equal to .74% of net operating revenue for the tax year as identified on the hospital's most recent audited annual financial statement for that tax year. Delinquent tax payments are subject to Title 22, section 3175-C.

For the state fiscal years beginning on ~~or after~~ July 1, 2004, a tax is imposed ~~annually~~ against each hospital in the State. The tax is equal to 2.23% of net operating revenue used in the determination of the tax due for the state fiscal year beginning on July 1, 2003.

For state fiscal years beginning on or after July 1, 2005, a tax is imposed annually against each hospital in the State. The tax is equal to 2.23% of net operating revenue as identified on each hospital's audited financial statement for the tax year two years prior to the tax year in which the tax is being imposed.

## **PART AAA**

**Sec. AAA-1. 20-A M.R.S.A. c. 308, as amended by PL 2003, c. 545, §2,** is repealed.

## **PART BBB**

**Sec. BBB-1. License fees.** Notwithstanding any other provision of law, the Commissioner of the Department of Health & Human Services is authorized to increase license fees through rulemaking to include the following: Home Child Care; Child Care Centers; and, Nursery Schools. These license fees shall be deposited as General Fund undedicated revenue in fiscal year 2005-06 and 2006-07.

## **PART CCC**

**Sec. CCC -1. Transfer of funds.** Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, available balances of appropriations in MaineCare General Fund accounts in fiscal years 2005-06 and 2006-07 may be transferred between accounts by financial order upon the recommendation of the State Budget Officer and approval of the Governor.

## **PART DDD**

**Sec. DDD-1. 18-A M.R.S.A. §3-306, as amended by PL 1979, c. 690, §5,** is further amended to read:

### **§3-306. Informal probate; notice requirements**

The moving party must give notice as described by section 1-401 of his application for informal probate to any person demanding it pursuant to section 3-204, to an heir, devisee or personal representative who has not waived notice in a writing filed with the court, and to any personal representative of the decedent whose appointment has not been terminated. The moving party shall investigate with due diligence whether the decedent

received MaineCare benefits at any time when the decedent was 55 years of age or older. If the moving party determines that the decedent likely received such benefits, he shall give notice as described in section 1-401 to the Department of Health and Human Services. No other notice of informal probate is required.

**Sec. DDD-2. 18-A M.R.S.A. §3-310, as amended by PL 1979, c. 690, §6,** is further amended to read:

**§3-310. Informal appointment proceedings; notice requirements**

The moving party must give notice as described by section 1-401 of his intention to seek an appointment informally: (1) to any person demanding it pursuant to section 3-204; (2) to an heir or devisee, who has not waived notice in a writing filed with the court; and (3) to any person having a prior or equal right to appointment not waived in writing and filed with the court. The moving party shall investigate with due diligence whether the decedent received MaineCare benefits at any time when the decedent was 55 years of age or older. If the moving party determines that the decedent likely received such benefits, he shall give notice as described in section 1-401 to the Department of Health and Human Services. No other notice of an informal appointment proceeding is required.

**Sec.DDD-3. 18-A M.R.S.A. §3-403, sub-§a, as enacted by PL 1979, c. 540, §1,** is amended to read:

**§3-403. Formal testacy proceeding; notice of hearing on petition**

(a) Upon commencement of a formal testacy proceeding, the court shall fix a time and place of hearing. Notice shall be given in the manner prescribed by section 1-401 by the petitioner to the persons herein enumerated and to any additional person who has filed a demand for notice under section 3-204.

Notice shall be given to the following persons: the surviving spouse, children, and other heirs of the decedent, the devisees and executors named in any will that is being, or has been, probated, or offered for informal or formal probate in the county, or that is known by the petitioner to have been probated, or offered for informal or formal probate elsewhere, and any personal representative of the decedent whose appointment has not been terminated. The petitioner shall investigate with due diligence whether the decedent received MaineCare benefits at any time when the decedent was 55 years of age or older. If the moving party determines that the decedent likely received such benefits, he shall give notice as described in section 1-401 to the Department of Health and Human Services. Notice may be given to other persons. In addition, the petitioner shall give notice by publication to all unknown persons and to all known persons whose addresses are unknown who have any interest in the matters being litigated.

**Sec. DDD-4. 18-A M.R.S.A. §3-814, as enacted by PL 1979, c. 540, §1,** is amended to read:

**§3-814. Encumbered assets**

If any assets of the estate are encumbered by mortgage, pledge, lien, or other security interest, the personal representative may pay the encumbrance or any part thereof, renew or extend any obligation secured by the encumbrance or convey or transfer the assets to the creditor in satisfaction of his lien, in whole or in part, whether or not the holder of the encumbrance has presented a claim, if it appears to be for the best interest of the estate. Payment of an encumbrance does not increase the share of the distributee entitled to the encumbered assets unless the distributee is entitled to exoneration.

Where the Department of Health and Human Services has asserted an estate recovery claim against any decedent's estate pursuant to Title 22, section 14, subsection 2-I, such claim shall be treated as if secured by any and all assets of the decedent's estate up to the value of the asserted claim and shall be lower in priority only than those claims asserted by the Internal Revenue Service, the Maine Revenue Service, and other secured creditors whose security interests arose prior to the subject MaineCare recipient's first receipt of MaineCare benefits. An estate recovery claim asserted under Title 22, section 14, subsection 2-I, is automatically perfected and attaches as of the date of the MaineCare recipient's death without taking further steps to meet the requirements of perfection in Title 11, article 9, subpart 2.

**Sec.DDD-5. 18-A M.R.S.A. §5-408, sub-§6,** is enacted to read:

**(6). The court may not authorize any gifts or other transfers from the protected person's estate other than to the protected person's spouse unless the court finds:**

- (a) That the estate of the protected person is sufficient for the protected person's care and maintenance for the present and the foreseeable future, including due provision for the protected persons established standard of living and for the support of any persons the protected person is legally obligation to support; and**
- (b) That any purpose of the gift or other transfer is not to diminish the protected person's estate in order to qualify the protected person for federal or state aid or benefits.**

The provisions of this subsection do not prevent the court from approving a transfer of assets to a trust established pursuant to 42 United States Code, Section 1396p(d)(4), as amended.

**Sec. DDD-6. 18-A MRSA §5-409, sub-§(b), as enacted by PL 1979, c. 540, §1,** is amended to read:

- (b) When it has been established in a proper proceeding that a basis exists as described in section 5-401 for affecting the property and affairs of a person the court, without appointing a conservator, may authorize, direct or ratify any contract, trust or other transaction**

relating to the protected person's financial affairs or involving ~~his~~ the protected person's estate if the court determines that the transaction is in the best interests of the protected person. In the event of a proposed transaction to transfer assets out of the protected person's estate to a person other than the protected person's spouse or to a trust other than a trust established pursuant to 42 United States Code, Section 1396p(d)(4), as amended, that transaction shall not be authorized unless the court has established upon due inquiry that the estate of the protected person is sufficient for the protected person's care and maintenance for the present and the foreseeable future, including due provision for the protected person's established standard of living and for the support of any persons the protected person is legally obligated to support. The court, except as provided in this section, shall not authorize any transaction for the purpose of diminishing the protected person's estate in order to qualify the protected person for federal or state aid or benefits.

**Sec. DDD-7. 18-A MRSA §5-425, sub-§(b)** is amended to read:

(b) If the estate is ample to provide for the purposes implicit in the distributions authorized by the preceding subsections, a conservator for a protected person other than a minor has power to make gifts to charity and other objects as the protected person might have been expected to make, in amounts ~~which~~ that do not exceed in total for any year 20% of the income from the estate. Such a gift or other transfer shall not be made other than to the protected person's spouse unless the conservator has established upon due inquiry that the estate of the protected person is sufficient for the protected person's care and maintenance for the present and the foreseeable future, including due provision for the protected person's established standard of living and for the support of any persons the protected person is legally obligated to support. The conservator shall not make any gift or other transfer for the purpose of diminishing the protected person's estate in order to qualify the protected person for federal or state aid or benefits. This subsection does not prohibit a transfer to a trust established pursuant to 42 United States Code, Section 1396p(d)(4).

**Sec. DDD-8. 22 M.R.S.A. §14, sub-§2-I, as amended by PL 2003, c. 20, §K-2,** is further amended to read:

**2-I. Claims against estates of MaineCare recipients.** Claims against the estates of MaineCare recipients are governed by this subsection.

**A.** The department has a claim against the estate of a MaineCare recipient when, after the death of the recipient:

(1) Property or other assets are discovered that existed and were owned by the recipient during the period when MaineCare benefits were paid for the recipient and disclosure of the property or assets at the time benefits were being paid

would have rendered the recipient ineligible to receive the benefits;

(2) It is determined that the recipient was 55 years of age or older when that person received MaineCare assistance; or

(3) It is determined that the recipient has received or is entitled to receive benefits under a long-term care insurance policy in connection with which assets or resources are disregarded and medical assistance was paid on behalf of the recipient for nursing facility or other long-term care services.

**B.** The amount of MaineCare benefits paid and recoverable under this subsection is a claim against the estate of the deceased recipient or, if it cannot be collected because there is a surviving spouse or child as described in paragraph C, a claim against the estates of the surviving spouse and such surviving child, after death, if either received any assets from the recipient for less than fair market value during any period while the recipient was receiving MaineCare benefits, or from the recipient's estate as defined in paragraph F. The claim against either the estate of the surviving spouse or child is enforceable as to the value of the asset on the date of the transfer from the recipient for less than fair market value, less any value actually transferred to the recipient in exchange, or on the date of the recipient's death, even if the asset received from the deceased recipient has since been lost, diminished, sold, encumbered, transferred or the title otherwise affected before the death of the surviving spouse or surviving child.

(1) As to assets of the recipient included in the probated estate, this claim may be enforced pursuant to Title 18-A, Article 3, Part 8.

(2) As to assets of the recipient not included in the probated estate, this claim may be enforced by filing a claim in any court of competent jurisdiction.

**C.** A claim may not be ~~made~~ collected, unless through a voluntary payment arrangement, under paragraph A, subparagraph (2) or (3) until:

(1) The recipient has no surviving spouse; and

(2) The recipient has no surviving child who is under age 21 or who is blind or permanently and totally disabled as defined in 42 United States Code, Section 1382c.

**C-1.** In its discretion the department may permit heirs, assigns or transferees of the deceased MaineCare recipient to reimburse the State over time for the amount of MaineCare benefits paid and recoverable under this subsection through payment plans, promissory notes or other similar mechanisms in lieu of immediate enforcement of the State's claim as authorized in this subsection.

**D.** Paragraph A, subparagraphs (2) and (3) apply only to a recipient who died on or after October 1, 1993 for MaineCare payments made on or after October 1, 1993.

**E.** A claim under paragraph A, subparagraph (2) must be waived if enforcement of the claim would create an undue hardship under criteria developed by the department. Waiver of an estate recovery claim may be granted in part or in whole. No waiver of estate recovery shall be available if the department finds that, notwithstanding any proof of undue hardship, either the waiver applicant or the deceased recipient acted to lose, diminish, divest, encumber or otherwise transfer any

value of or title to an asset for the purpose of preventing the State's enforcement of an estate recovery claim. No waiver shall be granted if the department determines that every undue hardship will not be fully alleviated by the waiver. In its discretion the department may waive the enforcement of an estate recovery claim if the costs of collection will likely exceed the amount of the recovery.

**F.** As used in this subsection, unless the context otherwise indicates, the term "estate" means:

- (1) All real and personal property and other assets included in the recipient's estate, as defined in Title 18-A, section 1-201; and
- (2) Any other real and personal property and other assets in which the recipient had any legal interest at the time of death, to the extent of that interest, including assets conveyed to a survivor, heir or assign of the deceased recipient through tenancy in common, survivorship, life estate, living trust, joint tenancy in personal property or other arrangement.

**G.** The department is authorized to accept, hold and transfer title to real property in order to facilitate collection of debts claimed by the State under this section. In its discretion the department may elect to receive title to real property from a personal representative, special administrator, public administrator, creditor, heir, devisee, assignee or transferee in full or partial satisfaction of a claim asserted under this subsection. The department is authorized to liquidate the property without further proceedings in probate or other courts.

**Sec. DDD-9. Department directed to publicize the requirements of the estate recovery program.** The department shall provide prominent, clear and understandable written notice of the estate recovery program requirements and the hardship waiver rules to the applicant or responsible party at the time of application for MaineCare benefits. At the time that the department is aware of the appointment of a personal representative for a deceased MaineCare recipient's estate, if the recipient was 55 years of age or older, the department shall provide prominent, clear and understandable written notice of the hardship waiver rules to the personal representative and any other person as described in the department's rules. The department shall develop an estate recovery brochure that outlines the program, answers frequently asked questions, and provides a toll-free telephone number for further information. The brochure shall be provided to every new MaineCare applicant or responsible party at the time of application for MaineCare benefits. Failure of the department to provide notice or distribute a brochure as described in this section shall not invalidate any claim that the department may assert under Title 22, section 14.

**Sec. DDD-10. Department directed to adopt rules requiring rate of income production by property of MaineCare recipients.** The department is directed to adopt a rule governing MaineCare eligibility to require that, if an applicant or recipient owns income-producing property, such property shall be considered a countable resource unless the property generates at least six percent of its current fair market value in net annual income after allowable expenses related to producing the income are deducted



from the gross income. The department is authorized to determine which expenses shall be allowable and to establish reasonable limits on such allowable expenses.

**Sec. DDD-11. Department directed to adopt rules imposing a penalty for partial month transfers of assets.** The department is directed to adopt a rule governing MaineCare eligibility to impose a penalty for the transfer to anyone other than a spouse of any asset for less than fair market value, whether the value of the asset is less than or equal to the average monthly cost of care, in the form of a one month disqualification from MaineCare eligibility for nursing or waiver coverage. Similarly, transfers of assets valued in amounts greater than one month's cost of care but less than the value of two months' care shall result in a two month disqualification from nursing or waiver coverage under MaineCare.

**Sec. DDD-12. Department directed to calculate the community spouse allowance by consideration of income first.** The department is directed to adopt a rule that requires, in determining eligibility for MaineCare long-term care coverage and calculating the minimum monthly maintenance needs allowance (MMMNA) of the recipient's or applicant's community spouse, the use of the "income first" rule. Under the "income-first" method, income of the institutionalized spouse that could be made available to support the community spouse is allocated to the community spouse for purposes of determining whether the community spouse has sufficient income to meet the MMMNA. The community spouse's resource allowance shall not be increased unless the community spouse's income will not meet the MMMNA after taking into account any income that may be made available from the institutionalized spouse.

**Sec. DDD-13. Department directed to adopt rules identifying certain annuity contracts as countable assets for MaineCare eligibility.** The department is directed to adopt rules for MaineCare eligibility purposes to provide that the value of an irrevocable contract of annuity insurance purchased by an applicant or recipient is a countable asset unless the contract names the recipient as the only beneficiary or names the applicant's or the recipient's spouse as the beneficiary, prohibits a residual beneficiary in the event the community spouse dies before the payout period ends, and provides no benefit to the community spouse other than a regular stream of income in equal payments over a period no longer than the spouse's life expectancy determined at the time of purchase, as established by the life expectancy tables published by the federal Centers for Medicare and Medicaid Services or other appropriate federal agencies identified by the department. These rules shall not displace the provisions of Title 24-A, section 2428, exempting from claims of creditors the proceeds of a contract of annuity insurance, but the department is authorized to count as an available asset for MaineCare eligibility the value of any contract of annuity insurance that does not qualify for exclusion as described herein.

**Sec. DDD-14. Application.** These amendments shall apply to all estate recovery claims that will be asserted for the first time by the department on or after January 1, 2005, notwithstanding the facts that a MaineCare recipient may have received benefits

prior to that date and that a potential claim for MaineCare recovery may have been accruing prior to that date.

## **PART EEE**

**Sec. EEE-1. 7 MRSA §1044-A, sub-§2**, as amended by PL 1997, c. 454, §3, is further amended to read:

**2. Seed labeling license.** No person, firm or corporation may label agricultural, vegetable and tree and shrub seeds, except seed potatoes, for planting purposes for distribution or sale in this State without having obtained a seed labeling license. The seed labeling licensee is responsible for the accuracy of the seed contents of all packages, boxes and bags of seeds labeled by the licensee. The fee for a seed labeling license is ~~\$30~~ \$50 annually. A license may be issued for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee.

**Sec. EEE-2. 7 MRSA §743**, as amended by PL 2001, c. 670, §1, is further amended to read:

Each brand and grade of commercial fertilizer must be registered before being offered for sale, sold or distributed in this State. The application for registration must be submitted to the commissioner on forms furnished by the commissioner and must be accompanied by an annual fee of ~~\$14~~ \$100 per product. ~~plant food element guaranteed.~~ All registrations expire on December 31st or in a manner consistent with the provisions as to license expiration of the Maine Administrative Procedure Act, Title 5, section 10002, whichever is later. The commissioner may issue a registration for a one-year, 2-year or 3-year period. Registrations for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year registration is 2 times the annual fee. The fee for a 3-year registration is 3 times the annual fee. The commissioner may refuse to register or renew or may suspend or cancel registration for failure to comply with this subchapter or with rules adopted pursuant to this subchapter. This refusal, suspension or cancellation is considered rule-making as that term is defined in the Maine Administrative Procedure Act, Title 5, chapter 375 and notice and opportunity for a hearing must be provided in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375. The application must include the following information:

**1. Weight.** The net weight;

2. **Brand and grade.** The brand and grade;
3. **Analysis.** The guaranteed analysis;
4. **Registrant's name and address.** The name and address of the registrant; and
5. **Additional information.** Additional information as required in rules adopted by the department.

The fees so collected by the commissioner shall be deposited in the General Fund.

A distributor shall not be required to register any brand and grade of commercial fertilizer which is already registered under this subchapter by another person.

The plant nutrient content of each and every brand and grade of commercial fertilizer must remain uniform for the period of registration.

**Sec. EEE-3. Additional revenue.** The Department of Agriculture Food and Rural Resources shall deposit reimbursement for services provided to partner agencies as undedicated revenue to the General Fund in the amount of \$33,042 in fiscal year 2005-06 and \$34,349 in fiscal year 2006-07.

**Sec. EEE-4. Additional revenue.** The Department of Agriculture Food and Rural Resources shall deposit reimbursement for services provided to the U. S. Department of Agriculture as undedicated revenue to the General Fund in the amount of \$25,956 in fiscal year 2005-06 and \$26,706 in fiscal year 2006-07.

**Emergency clause.** In view of the emergency cited in this preamble, this Act takes effect July 1, 2005.

## **SUMMARY**

This bill does the following.

### **PART A**

Contains the budget preamble and makes appropriations and allocations of funds reflecting Current Services for the 2006-07 biennium.

### **PART B**

Adjusts appropriations and allocations of funds for Current Services to stay within available resources for the 2006-07 biennium.

### **PART C**

Part C does the following.

- C-1                Establishes the mill rate factor and statewide local and state share contributions to the total cost of funding public education from kindergarten to grade 12 for fiscal year 2005-06. Establishes the Debt service allocation, miscellaneous adjustments and recommended appropriation level for fiscal year 2005-06.

### **PART D**

Part D does the following:

- D-1:D-59        Establishes a cap on total education costs. It also requires the State to increase its share of school funding by paying 50% of the total cost of essential programs and services in fiscal year 2006-07 and 55% in fiscal year 2008-09. As a result of this increased state aid to education, 90 cents of every dollar of the additional state aid are available for property tax reduction. The funds made available for property tax reduction, as a result of the State's increasing its share of education funding, must reduce property taxes. This property tax reduction may be overridden only by a majority vote of affected voters.

Corrects a numbering problem created when Public Law 2003, chapter 504, Part A, section 6 and Initiated Bill 2003,

chapter 2 both enacted substantively different provisions with the same section numbers.

## **PART E**

Part E does the following:

- E-1                Delays the increase from 5.1% to 5.2% in Municipal Revenue Sharing to July 1, 2007.
- E-2: E-4           Requires the calculation and transfer of statewide savings in the General Fund, Highway Fund and Other Special Revenue Fund from extending the amortization schedule of the unfunded liability of the Maine State Retirement System for fiscal years 2005-06 and 2006-07 that are identified in Part B section 1.
- E-5                Authorizes transfers of positions by financial order between accounts and between departments and authorizes the transfer of any available balances of appropriation and allocation between line categories, accounts and departments in fiscal year 2005-06 and balances by financial order between accounts and between departments.

Part F does the following

## **PART F**

- F-1: F-3           Amends the current provisions by authorizing the Maine Governmental Facilities Authority to issue additional securities totaling \$9,000,000 for capital repairs and improvements at various state facilities.

Part G does the following

## **PART G**

- G-1                Changes the distribution of the State's share of Real Estate Transfer Tax proceeds by reducing the amount paid to the Maine State Housing Authority by \$7,500,000 in each fiscal year.

## **PART H**

Part H does the following:

- H-1           Designates the Department of Administrative and Financial Services as the fiscal agent for the Workers' Compensation Board and the Commission on Governmental Ethics.
- H-2:H-3       Requires the Commissioner of the Department of Administrative and Financial Services to review the organizational structure, functions and systems of departments and agencies statewide regarding financial, human resources and information technology services to improve efficiency and cost effectiveness.
- H-4           Requires the calculation and transfer of statewide savings from financial, human resources and information technology for fiscal years 2005-06 and 2006-07 that are identified in Part B section 1.

## **PART I**

Part I does the following:

- I-1           The Commissioner of the Department of Administrative and Financial Services is authorized to enter into financial agreements with the Maine State Retirement System or other qualified investors during fiscal year 2005-06 and fiscal year 2006-07 to securitize up to \$250,000,000 of lottery revenues for a ten year period, or lease, sell or otherwise assign lottery revenues for a ten year period.
- I-2:           Authorizes the use of the lottery proceeds for payment to a qualified investor during the term of securitization.

## **PART J**

Part J does the following:

- J-1: J-3      Authorizes a prioritized series of transfers from the unappropriated surplus of the General Fund at the end of fiscal year 2005-06 to various programs within state government.

## **PART K**

Part K does the following:

- K-1      Requires the Commissioner of the Department of Administrative and Financial Services to review the organizational structure of administrative hearings units to improve efficiency and cost effectiveness. The savings identified by the Commissioner shall be transferred by the State Budget Officer. These transfers are considered adjustments to appropriations and allocations in fiscal year 2005-06 and 2006-07.

## **PART L**

Part L does the following:

- L-1:L4      Extends beyond 2005 the reduced Maine rate (21.5%) applicable against the federal child care credit for purposes of calculating the Maine child credit amount in order to negate the effect of the federal extension beyond 2005 of the expanded credit for child care expenses.

## **PART M**

Part M does the following:

- M-1:M-2      Ensures the inclusion of Maine property held by pass-through entities owned by non-resident decedents in the determination of Maine taxable estates.

## **PART N**

Part N does the following:

- N-1:N-4      Allows for a special estate tax election at the state level so that the estate of an individual with a surviving spouse may fully fund the taxable estate with an amount equal to the federal exclusion without changing the taxable nature of the estate for Maine purposes.

## **PART O**

Part O does the following:

- O-1-O-4      Clarifies that casual rentals of living quarters are subject to the Maine sales tax as of January 1, 2006.

## **PART P**

Part P does the following:

- P-1      Amends the definition of Code to mean the Internal Revenue Code of 1986 as amended through December 31, 2004.
- P-2      Extends beyond 2005 Maine's nonconformity with federal increases in section 179 expense deductions in order to negate the recent federal extension of those increases beyond 2005. This section relates to individual taxpayers only.
- P-3      Reverses, for Maine individual income tax years beginning after 2004, the new federal deduction relating to domestic production activities income. The deduction was enacted at the same time the federal Extra-Territorial Income provisions were repealed.
- P-4      Decouples the Maine standard deduction from the expansion in the federal standard deduction that provides "marriage penalty" relief to married taxpayers.
- P-5      This section requires individuals to reduce Maine itemized deductions by any state sales or use taxes deducted in arriving at federal itemized deductions. For purposes of federal itemized deductions, taxpayers may, for income tax years beginning after 2003, elect to deduct either state income taxes or state sales and use taxes. Maine currently requires taxpayers to reduce Maine itemized deductions by any state income taxes claimed in calculating federal itemized deductions.



P-6 This section extends beyond 2005 Maine's nonconformity with federal increases in section 179 expense deductions in order to negate the recent federal extension of those increases beyond 2005. This section relates to corporate taxpayers only.

P-7 This section reverses, for Maine corporate income tax years beginning after 2004, the new federal deduction relating to domestic production activities income. The deduction was enacted at the same time the federal Extra-Territorial Income provisions were repealed.

#### **PART Q**

Q-1 Delays sales tax exemption for Broadcast Equipment.

#### **PART R:**

R-1 Delays the application and contributions to a qualified scholarship organization for needs based scholarships.

#### **PART S**

S-1 Extends the Retirement Unfunded Liability to a 23 year amortization schedule.

#### **PART T**

T-1 Places into statute items previously reflected in the Preamble to the budget bill

#### **PART U**

- U-1 Authorizes the Bureau of Parks and Lands within the Department of Conservation to charge a fee for each burning permit issued resulting in additional General Fund undedicated revenue in fiscal years 2005-06 and 2006-07.

#### **PART V**

- V-1 Authorizes the Department of Corrections to transfer, by financial order, Personal Services, All Other or Capital Expenditures funding between accounts within the same fund for the purposes of paying overtime expenses in accordance with Title 5, section 7065.
- V-2 Recognizes additional General Fund undedicated revenue through boarding of juveniles from other governmental entities at the Long Creek Development Center.
- V-3 Recognizes additional General Fund undedicated revenue by the Adult Community Corrections program by working with the Judicial Department to assess fees on more probationers, improving the department's collections of supervision fees using technology, and by charging supervision fees on out-of-state probationers.

#### **PART W**

- W-1-W-31 Authorizes an increase in the various fishing and hunting fees by the Department of Inland Fisheries and Wildlife.

#### **PART X**

- X-1 Increases the State's contribution for retired teachers' health insurance from 40% to 45% effective July 1, 2005.
- X-2 Authorizes the State to share at the funding level percentage of premium participation any rebates, investment gains, or other positive gains resulting at the end of a contract year from the plan experience for retiree health insurance.

#### **PART Y**

- Y-1 Requires the Commissioner of the Department of Environmental Protection to review the current organizational structure and functions of the department to determine savings from cost reductions .

#### **PART Z**

- Z-1 Delays the effective date of the fiscal stability program for the Department of Inland Fisheries and Wildlife from fiscal year 2005-06 to fiscal year 2007-08.

#### **PART AA**

- AA-1 Increases General Fund undedicated revenue by \$1,100,000 in fiscal year 2005-06 and \$1,900,000 in fiscal year 2006-07 from an accelerated collection effort by the Judicial Department regarding overdue fines
- AA-2 Increases General Fund undedicated revenue by \$1,500,000 in fiscal years 2005-06 and 2006-07 from a reprojection of revenues from fines by the Judicial Department.

#### **PART BB**

- BB-1 Requires the State Budget Officer in conjunction with the Commissioner of the Department of Labor to identify savings, within the Department of Labor's General Fund accounts, related to improvements in organizational efficiency and cost effectiveness.

#### **PART CC**

- CC-1 Authorizes the Maine State Museum to charge general admission fees effective July 1, 2005 resulting in General Fund undedicated revenue of \$41,000

#### **PART DD**

- DD-1 Authorizes the Commissioner of the Department of Public Safety to increase the number of speed details using aircraft by 60 per year resulting in additional undedicated revenue to the General Fund of \$300,000 in fiscal year 2005-06 and fiscal year 2006-07.
- DD-2 Transfers \$517,963 from the State Fire Marshal's Office Other Special Revenue Fund account in the Department of Public Safety to the unappropriated surplus of the General Fund by June 30, 2007.

#### **PART EE**

- EE-1 Increases the fines for a person guilty of assault.
- EE-2:EE-3 Enacts a primary seat belt and increases the fines for traffic infractions.
- EE-4 Transfers \$40,033 in fiscal year 2005-06 and \$68,355 in fiscal year 2006-07 in savings from the Bureau of Elections and Commissions, Administrative Services and Corporations, Other Special Revenue Funds account in the Department of the Secretary of State to the unappropriated surplus of the General Fund no later than June 30, 2006 and June 30, 2007.

#### **PART FF**

- FF-1:FF-2 Amends the presumptions of abandonment provisions to include stored-value cards.

#### **PART GG**

- GG-1 Establishes special voluntary employee incentive programs for the 2006-2007 biennium, to include a 50% workweek option, flexible position staffing and time off without pay subject to the approval of an employee's appointing authority.
- GG-2:GG-3 Requires that health insurance and group life insurance benefits for employees participating in the program continue based upon the workweek in effect prior to participation in the program.
- GG-4 Authorizes the State Budget Office to transfer General Fund savings resulting from the program to the General Fund Compensation and Benefit Plan.
- GG-5 Lapses \$350,000 in each year of the biennium from savings from the program to the General Fund.

## **PART HH**

- HH-1:HH-14      Increases various fees and penalties assessed by the Department of the Secretary of State.

## **PART II**

- II-1              Requires the State Tax Assessor to increase the maximum payment under the Maine Residents Property Tax Program beginning no later than August 15, 2007 and annually thereafter.
- II-2              Increases the income eligibility for the program to \$50,000 for single-member households and \$75,000 for households with 2 or more members.

## **PART JJ**

- JJ-1              Requires the State Tax Assessor to determine the benefit for claimants under the Business Equipment Tax Reimbursement Program which is converted to an offset under the individual income tax line. No interest on payments may be allowed.

## **PART KK**

- KK-1              Authorizes the Governor to access any funds available to the state to address certain emergencies when funds remaining in the State Contingent Account are not sufficient to address the emergency.

## **PART LL**

- LL-1              Establishes the Pharmaceutical Cost Management Council to maximize the cost effectiveness of the pharmaceutical benefit for all health plans which are financed in whole or in part with public dollars. Private purchasers may be allowed to join the Council to participate in savings opportunities.
- LL-2              Provides for the calculation and transfer of savings in the General Fund in the cost of health insurance for state departments and agencies from pharmaceutical cost savings.

- LL-3 Provides for the calculation and transfer of savings in the General Fund in the cost of health insurance for school personnel from pharmaceutical cost savings.

#### **PART MM**

- MM-1 Provides for the calculation and transfer of savings in the General Fund in the cost of health insurance for state departments and agencies from reductions in hospital inpatient rates.
- MM-2 Provides for the calculation and transfer of savings in the General Fund in the cost of health insurance for school personnel from reductions in hospital inpatient rates.

#### **PART NN**

- NN-1 Establishes a process to engage state staff and community provider staff in reforms for the purpose of reducing administrative costs for community providers.

#### **PART PP**

- PP-1 This bill authorizes the department to contract for services to be provided to children and their families after a child protective investigation has indicated the need for such services, as well as to be provided to children who are in long term foster care.

#### **PART QQ**

- QQ-1 Authorizes the Department of Health and Human Services to change the rates and methods of reimbursement to foster care providers, which rates may vary depending on the type of foster care and the length of time that a child has been in foster care. The department may phase in the changes over time if it determines that is appropriate.

#### **PART RR**

- RR-1 Authorizes the Department of Health and Human Services to use its own administrative hearings unit for the purpose of conducting mediation or a hearing to resolve a child's grievance.

## **PART SS**

- SS-1 Authorizes the Department of Health and Human Services to change benefit structures, eligibility levels and reimbursement methods in the MaineCare program and requires the commissioner to give advance notice to two Legislative committees of any changes that are needed to reduce expenditures in that program.

## **PART TT**

- TT-1 Authorizes the Department of Health and Human Services to contract with a private vendor when an audit is to be conducted with regard to an out-of-state provider.

## **PART UU**

- UU-1 Restricts eligibility for the elderly low cost drug program to those persons not eligible for Medicare D when that program becomes effective, except that the department is authorized to establish a program of wrap services to provide coverage of certain drugs not covered by Medicare D and to act as the client's authorized representative to choose the Medicare D plan for the client to achieve the best coverage under Medicare D.

## **PART VV**

- VV-1 Extends the 5% service tax to services provided by licensed assisted living programs, licensed residential care facilities, and community support services and directs that the revenue obtained be credited to certain accounts of the Department of Health and Human Services.

## **PART WW**

- WW-1 Extends the mental health insurance parity laws to require insurance coverage of evidence based treatment, crisis intervention services for adults, crisis resolution services for children, crisis support services for both adults and children, and emergency

services for both adults and children. This bill affects group health insurance, health maintenance organizations and nonprofit hospital and medical organizations.

#### **PART XX**

- XX-1            This bill changes the licensure fee for tobacco retailers from \$50 to \$100 annually.

#### **PART AAA**

- AAA-1            Repeals the provisions relating to transitional services coordination projects for handicapped persons and the Interdepartmental Committee on Transition. The Committee was established to administer a grant that was received in 1989, but its functions now overlap with the functions of the Children's Cabinet.

#### **PART BBB**

- BBB-1            Authorizes the Commissioner of the Department of Health & Human Services to increase license fees through rulemaking to include the following: Home Child Care; Child Care Centers; and, Nursery Schools. These license fees shall be deposited as General Fund undedicated revenue in fiscal year 2005-06 and 2006-07.

#### **PART CCC**

- CCC-1            Authorizes the State Budget Officer to transfer between accountsr available balances of appropriations in MaineCare General Fund accounts in fiscal years 2005-06 and 2006-07.

#### **PART DDD**

- DDD-1:DDD-14       Amends the estate recovery provisions within the Department of Health and Human Services.

#### **PART EEE**

- EEE-1:EEE-2        Amends the seed labeling license and fee provisions within the Department of Agriculture Food and Rural Resources.



- EEE-3 Requires the Department of Agriculture Food and Rural Resources to deposit all reimbursement for services provided to partner agencies as undedicated revenue to the General Fund in the amount of \$33,042 in fiscal year 2005-06 and \$34,349 in fiscal year 2006-07.
- EEE-4 Requires the Department of Agriculture Food and Rural Resources to deposit all reimbursement for services provided to the U. S. Department of Agriculture as undedicated revenue to the General Fund in the amount of \$25,956 in fiscal year 2005-06 and \$26,706 in fiscal year 2006-07.